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CONSIDERATIONS

Laiderdale UPON THE *Pamphlets* *12*

POLICY of ENTAILS

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GREAT BRITAIN;

Occasioned by a Scheme to apply for a
Statute to let the Entails of *Scotland*
die out, on the demise of the Posses-
sors and Heirs now existing.

By JOHN DALRYMPLE, Esq.

EDINBURGH:

Printed for A. KINCAID & J. BELL.

MDCC LXIV.

To the RIGHT HONOURABLE

Mr CHARLES YORK,

SIR,

I HAVE the honour to beg your acceptance of these Papers, though uncertain whether the opinions contained in them are agreeable to yours; and perhaps afraid that they are not.

To pretend to give up one's sentiments in compliment to those of another, is meanness in a man; but in a friend, it is a crime. I am vain the world should know, that I have this last for my apology, in case the opinions I have formed should be so unfortunate as to differ from your's.

YOUR

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Your depth in the principles of law and policy; your love of, and taste in, science and letters; the obligations I owe you; and above all, that personal and unaffected respect which I have for you; make me think it a duty I owe to you, and to myself, to dedicate the following sheets to your name.

I HAVE the honour to be, with the highest gratitude and respect,

Your obliged and

obedient Servant,

JOHN DALRYMPLE.

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CONSIDERATIONS

ON THE

POLICY of ENTAILS

in GREAT BRITAIN.

CHAP. I.

Occasion of the following Considerations.

AN entail, and the restraints put upon the heirs under it by the person who creates the entail, are very separate things, and merit very different considerations.

An entail to endure while the heirs under it endure, is no more than a private family settlement, by which the maker of the entail provides, that a certain income shall issue out of his estate for the support of the heirs whom he appoints to succeed to him, however remote in time they

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they may arise. It is erroneous to call a settlement of this kind a perpetuity: for the entail ends as soon as the heirs under it are at an end; and in the person of the last heir the estate returns to be subject to the same regulations of law, which take place with respect to other estates.

The restraints put upon the tenant in tail by the will of the entailer, all of which that tenant is bound to obey by taking the estate, may be as various as the views, either reasonable or unreasonable, of mankind, in projecting to make the income of the estate secure to the heir. It is only where the restraints are unreasonable that they should be prohibited by law; as when the tenant in tail is restrained from giving a jointure to his wife, from granting leases, and such like, where both the private and public interests are hurt by the restraint.

Such restraints in the entails of Scotland are many, and pernicious; but few men, in judging of the policy of this kind of settlement, distinguish betwixt entails themselves, and the improper conditions contained in them; and therefore it is not to be wondered at, that, while many people in Scotland are exceeding fond of, many
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are equally averse to this institution. But to destroy entails, because there are unjust and unpolitical restraints in many of them, is much the same, as if a man was to cut off his arm, because two or three of his fingers ached; let the fingers be healed, the arm will remain an useful member; let improper restraints in entails be discharged by law, and entails will perhaps be found, in the present state of Britain, to be a political good.

A proposal was lately made to the body of lawyers in Scotland, to take measures for an application to Parliament to amend the Scotch law of entails.

In consequence of which, a committee was named by that body, to frame a bill for that purpose.

What alterations should be made upon the law of entails, was not suggested to this committee, by those who appointed it; only the committee were directed, that if the intention of the bill they should frame was to destroy entails, they should take care to frame the bill so as not to hurt the interests of heirs either in the direct or collateral line, existing at the date of passing the statute to be fought.

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The committee reported a bill to be offered to the judges, counties, and burrows, for their approbation; the general plan of which bill was, that the present entails should cease with the lives of the possessors and heirs existing at the time of the act; and that, for the future, no entail should be made to bind any others than the persons existing at the date of making such entail.

The effect of the bill*, if passed into a law, would be, that some of the present entails

* The instruction of the body of lawyers to their committee, to contrive their bill so as not to hurt the interests of heirs now existing; and the care taken in the bill not to hurt those interests was political, with regard to the public interest—was just with regard to individuals—and was founded on legislative precedent.—*It was political, with regard to the public interest:* for had all the entailed land of Scotland been thrown now, and at once, into the capacity of being brought into market, the suddenness of the revolution, and the infallible glut in that market from the overplus quantity of commodity brought into it, would have occasioned a most unquestionable loss both to the commercial and landed interest of Scotland.—*It was just, with respect to individuals:* for there is seldom such provision made in marriage-articles, for security of the heir of the marriage, where the husband has his estate entailed, or is immediate heir under one, as is commonly done when the estate is not entailed. Where the estate is entailed, the heir of the marriage is deemed sufficiently secure by the entail. And therefore it is but a just tenderness to a woman, married to one in such a situation, and a just tenderness to her children, that no new supervenient law should be allowed to bring disappointment upon her and their expectations; those expectations, which the law either ought never to have countenanced, or ought not to dash to the ground when raised under its own countenance.—*It was founded on legislative precedent:* for when the statute of the 7th of Queen Ann, subjected the Scotch entails to the English

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entails would fall very soon, one-half would be sunk in twenty years, and nine-tenths of them in forty or fifty.

This bill having been lately approved of by a majority of the body of lawyers, the contents of it have been since printed in the news-papers, and other public vehicles of that sort, by authority, and the attention of the public is called to it.

The Gentlemen who have made that call, have done their duty; for the subject well merits all the attention that can be bestowed on it. Revolutions in the laws of land-property are ever attended with important consequences; and therefore, before they are made, it behoves men well to look forward, and examine whether these consequences will be good as they wish, or may be bad, as they may not foresee; and in so doing, their thoughts must not be narrowed to one object, nor superficial, nor implicitly taken up, but must comprehend a variety

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English laws of forfeiture, there was a particular exception made in favour of the issue of those married at the time of passing the act. The tenderness of law to women who had entered into marriage with men whose estates were so seemingly secure from those laws, and to the issue of those women, created with equal justice and mercy the exception.

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of relations, must be deep, and must be weighed with independence of thought.

Upon this occasion, I think it both my right, and my duty, to give my sentiments to the public. It is my chance in life to have a larger interest in entails than any of the other commoners of Scotland have, a very few excepted: and I find many men of birth, fortune, and good sense, who think with regard to them as I do. A train of inquiry* I was engaged in some years ago, will shew, that I had thought on this subject, before the present measure was proposed; reflexion has since confirmed me in the opinion which I then formed:—If I err, my errors arise not from thinking too little, but from having thought perhaps too much upon the subject.

The intention of the following considerations is, first to shew that the destruction of entails is in the present situation of Britain not expedient.

And secondly, to point out the improper conditions in entails which ought to be discharged by law.

If the principles which prove that entails to a far greater extent than they yet prevail, are expedient in Scotland, should shew

* History of feudal property.

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shew that they would be expedient though received to the same extent in England, I cannot help it: the same principles will affect all nations in the same circumstances. But though I wish to search for truth as a philosopher, and to assert it as a man, I have no inclination to expose myself to the ridicule which attends a projector; and therefore when I speak of the policy, perhaps proper for England, on this subject, I mean thereby only to establish my own argument concerning the policy of Scotland.

C H A P. II.

First Consequence of letting Entails die out.

A Law proposed which is to break in upon the wills of private persons, and to break down family-settlements, should never be adopted by legislation, except from a very unquestionable expediency; because, until such settlements hurt the public interest, the public has, if I may be pardoned the expression, no just title to meddle in them. It may be very foolish in individuals to think of making their

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their names and families perpetual, when Providence has determined that all names and families shall have an end; but, if individuals are happy in that imagination, the State may very well allow them to enjoy their folly so long as it hurts not the State.

Now, one of the best ways to know, whether a particular branch of policy hurts or does not hurt a country, is to examine the consequences which would follow, if that branch of policy was cut off.

If entails, as proposed by the bill, were allowed to die out, I imagine the following consequences would follow,

“ First consequence : All the land-
 “ property of Scotland would sink
 “ in its solid value, by which I
 “ mean its value upon a sale.”

The price of land is regulated by the quantum of it in the market, compounded with the quantum of the demand. Buyers of land are like buyers of any other subject of traffick: where there are many sellers, there will always be cheap bidders. The entailed property of Scotland is about a fifth of the land-rent; therefore,

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fore, according to the common rules of calculation, a fifth more of land-property should fall into the market, upon the dissolution of entails, than is in it at present. But this computation is by far too low; most men of entailed estates, are in straitened circumstances, because, in these days of general extravagance, most of them live above their income: the consequence is, that a greater proportion of entailed lands will be offered for sale, to relieve the straits of their proprietors, than otherwise should be naturally offered according to the proportions betwixt entailed and unentailed property. There is to be sold at present in the county where I write *, an hundred thousand pounds worth of land, and in the other counties of Scotland, as I have heard, five hundred thousand pounds worth more; and we in Scotland very well know, that there is a difficulty to find purchasers every where. Now, if a quantity of entailed land, larger than ought naturally to have been expected from the proportions betwixt entailed and unentailed property, should be thrown into a market already overglutted, is it not plain, that it would sink the value of whatever shall

* Mid-Lothian.

shall be brought into that market? It would take the value of several years purchase out of every landed man's pocket upon a sale of his estate.

Merchants observe, that, if the commodity in market is diminished one-third beneath its mean quantity, it will be nearly doubled in value; and that, if it is augmented one-third above its mean quantity, it will sink near one-half in its value; and that, by further diminishing or augmenting the quantity, these disproportions between the quantity and prices vastly increase. To be sure these rules will not hold good in the value of that commodity called land, in Britain at least; but it is self-evident, that the dissolution of entails will to a certain extent, and that not a small one, hurt the value of all the unentailed land-property of Scotland.

It is said, that, if our entails were destroyed, and the lands under them offered to sale, our neighbours in England would send mountains of gold to purchase our estates. I believe it is true; for, whenever our lands tumble down to twenty-one or twenty-two years purchase, they will buy them fast enough. But, if the money should be thereby withdrawn from the commerce,

commerce, or the public funds of England, the advantage would not be great to England; and, if the English were to draw the land-rents of Scotland, the advantage perhaps would not be much greater to Scotland.

C H A P. III.

Second Consequence of letting Entails die out.

“SECOND consequence. Money “ would rise in its value, or, “ in other words, the interest of “ money would be heightened.

The value of money, upon the same principles as that of land, is regulated by the quantum which the lender is ready to lend out, compounded with the quantum of the demand of the borrower, or, in other words, with respect to this last, the number and extent of the uses which the borrower has for it. Interest of money is high in Great Britain, relatively to some other commercial States of Europe; because there are four great vents to be supplied by, and to create a demand for it,

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it, namely, the purchase of land, the purchase of stocks, the dissipation of the extravagant, and the uses of commerce: through these the sums demanded to be borrowed come to exceed the sums wanted to be lent; the consequence must be, that he who has money to give out to use, will always be sure of a large interest for it, from people who want it for one, or other, or perhaps all of those purposes. But suppose great part of the land-property of Britain was entailed in consequence of a toleration to entail, two of those sources of demand would be diminished, *viz.* the call for money to purchase land, and the call for money to squander; because people would not be fond of borrowing money to purchase land at a high price, and men under entails cannot squander more than their annual revenue. What would be the consequence of this to the money-lender? The consequence would be, that his money would regorge in his possession, and he would be contented to take a less interest for it; because he would then have almost only the merchant or the public to apply to for taking it off his hands. Thus, both the trader and the State would borrow cheaper than they do

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do at present; the one for the advantage of the commercial, and the other for the advantage of the political interests of the nation. In the very same manner, a scheme which tends to increase the quantity of land in the market, such as destroying entails; enlarges two of the sources of demand for money, arising from the natural inclination of all men to purchase land as soon as it becomes cheap; and in thousands of men to borrow and to squander, as long as they can get credit for a guinea, or have an acre to mortgage. The money-lender marks well the enlargement of these sources; he takes advantage of them; he demands more for the use of his money; and his demand as soon as made, must be complied with.

Facts always correspond to true principles: observe the rate of interest, where there has been an over-stock, or under-stock of land, in circulation. Begin with the first.

The interest of money was as high in the Queen Elizabeth's reign, as it ever was at any * former period of the English history.

* I observe it said in some books upon trade, that the common rate of interest was at 10 or 12 *per cent.* at periods prior to Elizabeth's reign. There are indeed a few instances where 12 *per*

tory. Yet in the ordinary course of things, it ought to have been much lower; for the nation had, during her reign, acquired great wealth by commerce, by plunder, and by the parsimony of the Sovereign; the Indies too had been discovered, and the silver of the one India had not yet found its way, at least to any considerable extent, into the other; so that every thing contributed to have lowered the interest of money. How then came it to be so high* as ten *per cent.* in the end of Elifabeth's reign? Obviously on account of the great quantity of land thrown lately into market. The entailed lands of the old families, were falling every day into commerce, in consequence of the latitude given by the statute of Henry VII. the lands of the church had been alienated by Henry VIII. and the lands of the crown had been alienated by Elifabeth, to spare the burden of taxes to her people. The quantity of land, from these three causes, in circulation, made an extraordinary demand for money; and this demand kept money

per cent. was paid upon pressing occasions: But I cannot find any authority from *Record*, for saying that the current rate of it was ever so high as 12 *per cent.*; tho' I have been at a good deal of pains to find it out.

* Statute-book, Anno 39. Reg. Elifabeth cap. 18.

money at an unnatural height of interest.—It is true, there was a second demand for money, to maintain the efforts of trade and manufactures which were pushed with vigour in this reign: Similar efforts however, were made both in France and Holland, at the same period; and yet the legal interest of money in France, in the reign of Elifabeth's cotemporary Harry IV. was ordered by an edict of the King to be so low as six and a quarter *per cent.* and was much lower in Holland at the same period in its current rate.

Mark the rate of interest on the other hand, where there is an understock of land in circulation. Holland is the country in the world, where there is the least land in proportion to the numbers of inhabitants, and the least extravagance in proportion to the wealth of those inhabitants. What are the consequences of this vacuity in those two sources of demand for money? An immense private credit at a lower interest than in any part of Europe; and a publick credit which, within less than a century of the establishment of the Dutch commonwealth, was carried to an amazing height.

Now,

Now, if it be true, that the increase of the quantity of land-property offered for sale, tends to heighten the interest of money; can it be thought that schemes which drag land into a glutted market will be of advantage to a trading nation like Britain? Trade is a trial, or competition who shall sell commodity cheapest; and money is the instrument of that competition. Whatever nation has money cheap, can, *ceteris paribus*, always undersell that nation which has money dear. The lowness of interest too, not only encourages thousands to enter into trade; but it forces those who would otherwise live upon the interest of their money, to become traders. Many other advantages* to a nation follow from it. Look at the progress of trade these three hundred years back in Europe; and it will be found to bear a proportion exact, regular, and without any even the minutest variation, to the rate of the interest of money. In every nation where it has been high, trade has been always low: in every nation where it has been low, trade has always flourished.

I know it will be said, the voice of trade cries loudly against entails; and that what she

* Vid. Sir Joseph Child.

she calls for cannot be against her own interest. But there is a very solid distinction, tho' not always attended to, betwixt trading men, who by continuing in trade are serving their country, and monied men, who have left off trade, or who have never had any connection with trade; the former of whom retaining, and the latter assuming her livery, and both counterfeiting her voice, want only to serve themselves. The voice of trading men, must always be, if they think at all, for the high price of land and the low price of money; because by these only, they have the command of money, and at an easy rate of interest. The voice of monied men indeed, will be always, for every scheme which can make land cheap and money dear; because through these they will be enabled to purchase the one, and lend out the other, to so much the greater advantage to themselves. But the nation will consider, which of these interests it is most to attend to; and if the voice of the former, should by mistake join itself to the clamours of the latter, like a bad hound who yelps and follows, tho' he neither sees nor scents, the wise will see the mistake, tho' the foolish do not.

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Another national consideration is to be attended to. It is by the lowness of interest that the nation has been enabled; to support debts, and to exert force, which have astonished mankind; and it is by the same lowness of interest alone, that she can be preserved from feeling the mischievous effects of them. Public credit is become an object to Britain, almost as important as the interests of her commerce: but taxed almost to the full, she can bear with difficulty more taxes; and tho' the produce of her funds will rise with the increase of her trade, the expences of government to protect that trade must rise with them. There is perhaps only one certain means, by which she can always be secure of again raising her millions in the hour of need; and that is, by following such plans of policy, as will enable her, without violence, to lower the interest of money upon her public debts; because by that measure, the produce of the old taxes will always pay the interest of a large additional capital borrowed upon them. *De Wit* opened a way for paying fourteen millions of debt to the Dutch in twenty one years by this measure. Mr *Pelham* enlarged the powers of the nation without enlarging

enlarging the burdens upon individuals, in the same manner. These were great men, and circumstances favoured them; but follow schemes which tend to heighten the value of money, and the measure becomes impossible even to the ablest of ministers, and in the most fortunate of circumstances.

At a period when peace has just been established; when there has been conquest abroad, and prosperity at home; and when there is capacity and virtue upon the throne, and industry and œconomy in administration; it was to have been expected, that the price of stocks should have risen, that is, that the price of money should have fallen: but the very reverse has happened; not from accident; not from combination; to impute it to the former of these is too shallow, and to the latter is too refined a thought; but from this obvious and simple cause, that there is a great and unusual demand for money from many quarters; the certain consequence of which must be, that the price of money must be high. At such a period, to create additional demands for money, where they do not arise naturally of themselves, is to add to the dangers and distresses of the State

State. If it is an error to think favourably of entails at other times; it is perhaps *at present* not altogether inexcusable.

C H A P. IV.

Third Consequence of letting Entails die out.

“ **T**HIRD consequence: Money
“ would be withdrawn from
“ commerce to purchase land,
“ and thereby commerce would
“ be hurt.”

If land is cheap in a country, merchants will withdraw their stocks from trade, and lay them out upon land. If the interest of money is high, they will be still more apt to do so. No man will trust to uncertain debtors, and winds and seas, when he finds, that his profits upon land, from the cheapness of it, are nearly equal to the profits upon trade from the dearness of money. If destroying entails tends to sink the value of land, and to raise the value of money, is it not obvious that such a measure must be detrimental to commerce.

merce? The political practical *De Wit*, and the philosophical abstract *Locke*, equally agree, that a chief advantage for trade which Holland has over other nations, is, that she has but little land to withdraw her traders from commerce. Even this little is made less by the laws of that country, which partly create incapacities in people to disinherit their children beyond a certain extent; partly allow it to be locked up by *fidei commissa*, and partly so load it with taxes, that nobody will buy it.

Tyre, Athens, Corinth, Rhodes, Marseilles, Carthage, Venice, Genoa, Holland, Hamburgh, are examples which prove, that trade thrives most where there is least land belonging to a trading people. The commerce of France, is chiefly carried on by Huguenots, and of Ireland by Roman Catholics; merely on account of their incapacities to hold land-property, or at least to hold it to advantage. The example of the Jews, in all modern nations and ages, shows, that money property is accumulated, just in proportion as those in pursuit of it are removed from connection with the property of land.

If there is a people on earth standing in need of, and wishing for an extension

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of her commerce, who ought to reflect on those examples, it is the Scotch; because it is the rage of the national character to run to the purchase of land at home, as soon as they can get a little money wherewithal to do it. A Dutchman does not think of quitting trade, till he has made an estate for every child; and does not quit it even then; an Englishman does not retire from it, till he has made an estate for his eldest son at least: but a Scotchman in Scotland runs from trade to the country, as soon as he has made a miserable pittance for himself. Is this last a country in which laws should be contrived to invite and to push traders out of their way, when they are too apt of themselves to go astray? Could the laws of Scotland, like those of the antient Egyptians, determine the professions of the subject, it would be better that the trading part of our countrymen were obliged to continue in trade from father to son; as the Venetians and Genoeſe once did, and as the Hollanders still do.

Money withdrawn from trade to land, tho' not lost in itself, is yet lost to trade; it finds its way very slowly back from the new hands that receive it, into its former busy

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busy regions: for very * few people sell their lands to turn merchants; almost none sell but to pay debt, or to run into it.

Now, when our trade once begins to go away, our wealth will soon, very soon, follow: and then all of what Mr. Locke calls "Our contrivance among ourselves, and shuffling the little money we have from one another's hands," will not bring it back. The fine word *circulation* will not arrest wealth in its retreat from a country, whose commerce is injured in the desertion of her best friends. The money at a gaming-table is constantly circulating; for it is tumbled up and down, and changes its master at every throw of a dye; yet for all this, it lies perfectly still as to the public; and just in the same manner the circulation of land from one landed bankrupt to another, may enrich or impoverish individuals

* Hear Mr. Locke upon this head: "If art or chance has made it fashionable for men to live beyond their estates, debts will encrease and multiply and draw with them, first, a necessity of incumbering, and then selling their estates." "I think there is scarce one in an hundred that thinks of selling his patrimony, till mortgages have pretty well eat into the freehold; and the weight of growing debts force a man, whether he will or no, out of his possessions. When almost is there ever a clear and unincumbered estate set to sale? 'Tis seldom a thriving man turns his land into money, to make the greater advantage: The examples of it are so rare, that they are scarce of any consideration in the number of sellers." — Locke's *considerations*, page 27.

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individuals in their turns, but will never recover or retain one farthing of the nation's stock of wealth, when trade is gone, or going from it. Nor will the frequency of the transfer add, as is vainly imagined, even to the improvement of lands. Circulation of land will no more add to its improvement, than circulating a rouleau of guineas will add to their weight; for to make improvements in a soil and climate like ours, national wealth is required, and to consume or export the produce of it, national commerce is equally necessary.

C H A P. V.

Fourth Consequence of letting Entails die out.

“**F**OURTH consequence: Exportations would decrease, and home-consumption and importations increase.”

Before tracing the chain of causes and effects which lead to this consequence, I beg leave to lay down a position, the connection of which with the reflections that are to follow it, will be, I flatter myself not difficult to be seen.

A man

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A man who has a land-estate of L. 1000 a year not entailed, may spend betwixt L. 20,000, and L. 30,000 within the compass of a year, in waste, or even in the change of modes; but a man who has L. 1000 a year entailed, cannot spend much more than his L. 1000 within that space; because no body will give him credit for much more.

S E C T. I.

Mischievous effects of a dissipation that is desultory.

There are three great classes of people in every extensive nation; the industrious, who raise all the necessaries and luxuries of life; the luxurious, who consume part of the produce of the industry of the former; and the merchants, who, among their other employments, export the remainder of what is not consumed by the two former classes. Thus, the produce of the industry of the first of these classes, is either consumed at home, or exported abroad. When it is exported abroad, our industrious are maintained by our neighbours; when it is consumed at home, they are maintained

maintained by ourselves: in the first of these cases, the industry of the poor makes the nation rich; in the last of them, it only makes the nation luxurious at first, and poor in the end.

Consequences in the moral and political, are as absolute as in the natural world: excess in home-consumption is attended with the dissipation of private fortunes. And there are three steps marked and precise, which, in the indulgence of this dissipation, lead, through the prodigality of individuals, to national poverty.

The articles produced by the industry and ingenuity of the artizan, for the use of the luxurious consumer at home, are expensive, and the wages of those who furnish them are high; articles exported, on the contrary, whether rough materials or manufactured are cheap, and the wages of those who furnish them are low: the reason is, that the luxurious part of our people being wealthier and more prodigal than those of other nations, will have their pleasures at any price; whereas foreigners will only take your commodities at their own; that is, at a price lower than they can get them elsewhere, or furnish them themselves. Compare the wages of those who

who administer to the pleasures of the luxurious, that is, to their consumption of superfluity in furniture, equipage, dress, the table, personal service, toys useful and useless, &c. &c.; with the wages of those who are employed in preparing the three great articles of British export, corn, cloth, and iron-ware; and you will see a very striking difference. But in a rich state, the rich are not more insatiable in their demands for the work of the poor to supply their artificial wants, than the poor are insatiable for the wealth of the rich to supply their natural ones: they invent, improve upon, vary, and refine in a thousand arts, to catch and secure the taste of the superior class of the nation. Among those of this class, there arises not only an additional demand, but a competition for the produce of industry and ingenuity; and the certain consequence of competition in this, as in every other thing, is, to raise still higher the wages of those employed in gratifying the competitors. The Artizans, formerly busied at cheap wages in furnishing commodities for exportation, now either turn themselves to the more lucrative employment of administering to the luxuries of their own countrymen, or

insist

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insist for higher wages if they continue in their old ones: thus the prices of labour and height of profits, and consequently the values of commodity, rise from class to class, and from rank to rank, through all the industrious classes and ranks of the kingdom. But there is nothing so difficult as to bring wages and profits down again, when they are once mounted up: a common man spends all his days earnings, whatever they are, more regularly than a gentleman does the rents of his estate; and if his wages are high, creates artificial wants for himself as well as the other: these he confounds with his necessary wants, and if you afterwards attempt to reduce him so low that he cannot gratify them, he is not able to fall back to a more simple way of living, but thinks you have struck off so much from the very means of his existence. And, in the very same manner the class above him live up to their profits; they put the expence of their living as it were to the account of the prime cost of the commodity in which they deal, and when their profits are diminished, they cry out and believe that their fortunes are ruined. Now, when the competition of the luxurious in home-consumption is great, that

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that is, when the dissipation of private fortunes is frequent, and when the wages of one part of the industrious, and the profits of another are much raised, that is, when the price of commodity is heightened, it is obvious, exportations must decrease. Two reasons make this consequence infallible; one is, that the prices of commodities being raised, foreigners, who bought them only because they were cheap, will not buy them now that they are dear; but will find them elsewhere, or furnish them themselves. The other is, that the excess of home-consumption is, to a certain degree, a diminution of the fund for exportation. Whatever of the produce of the industry or ingenuity of the artizan is thrown away at home, either in waste, or in the change of modes to excess, is just so much lost to exportation; and the quantum of this in a nation, wealthy and prodigal like the British, will be nearly in proportion to the means of extravagance of her inhabitants, and to the indulgence in it, which the contrivance of her laws gives latitude to.

The first effect then of the indulgence of the dissipation of private fortunes, is, that whilst it spurs on excess in home-consumption of superfluities, it checks exportation.

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II. But

II. But the mischief arising from that unlimited dissipation, does not stop here. The very same causes which made exportations to decrease, will make importations to increase; for, in the *first* place, when the wages of workmen, the profits of merchants, and the prices of commodities rise too high at home, foreigners fall to work abroad; they afford the produce of industry and ingenuity cheaper than we can; and they supply us, on our own terms, with those very commodities with which we had formerly supplied them upon theirs. In the *second* place, that profusion, which at first was chiefly employed in the consumption of the produce of the industry of our own people, is next employed in the consumption of the produce of the industry of other nations: the taste for home-luxuries will soon be extended into a taste for foreign ones: these last will even be looked on as necessaries; and the same habits of expence which led men into excesses in their demands, for articles of the former kind, will make them rush into excess in their demands for articles of the latter.

The second effect then, of the indulgence of the dissipation of private fortunes is,

is, to increase importation as well as home-consumption.

A nation in these circumstances is in a galloping consumption. For the affairs of a nation are, in this respect, like the affairs of a private man: if a private man spends every year more than his income, he will, in a certain number of years, become a beggar; and a trading nation which consumes at home more of its own than it ought, and which imports from foreign countries, annually and constantly, a great deal more than it exports to them, will sooner or later be in no better condition.

III. But the last, and most fatal, effect still remains behind. A people may dispense with wealth, but they cannot dispense with strength. When a nation, in the situation I have described, engages in wars, which every nation must do sometimes, she must borrow money to support them. The debt so contracted, or the interest of it, can only be paid by taxes. These, at least to any considerable extent, can only be furnished by trade: but the funds of trade, and consequently the produce of taxes, must diminish, when the imports exceed the exports; because it is only the excess of the latter over the former, which supports

supports trade, or supplies money. But new wars arise, perhaps distress; she must again borrow, at a time when she is least able to pay, and is least trusted, which will raise the rate of interest both to the public, and to private persons; and again lay on new taxes at a time when her people, hardly able to pay their old taxes, are quite unable to bear new ones. The industrious poor; in such a state, will either become quite dispirited, sink, and work none at all; or, if they struggle a while with their miseries, they, and the merchants who buy from them, must add the price of the taxes, which both will pay, to the price of the manufacture itself; and this will raise the value of commodities so high, as not only to bar the little exportation that remained; but open the gates of importation so wide, that foreigners will, in time, pass them by, finding no ability within to give a reasonable equivalent for what they used formerly to import.

The last effect then of the dissipation of private fortunes, and of legal indulgence in that dissipation, is, misery at home from the weight of taxes, and impotency abroad from the deficiencies of funds, and the incumbrance of debts.

Most

Most trading nations lose their vigour from not making sufficient provision against this natural progress of things. Spain, from not doing so, has been emaciated for ages: the great wealth which she drew from her European dominions, and from the Indies, spurred on, in the sixteenth century, all the industry of her people: the produce of that industry found proportionable vents; much of it was consumed at home, much of it exported abroad; her * wool particularly, instead of enriching other nations, was worked up at home during the reign of Charles V. and Philip II. for the use not only of Spain, but of France, and other neighbouring countries, and of America; three cities, Seville†, Toledo, and Granada, alone, contained 40,000 woollen and silk looms:--And Spain flourished. But, in a little, the vast wealth and extravagance of individuals, called for all the produce of that industry, for the gratifications of home-consumption. The state and sumptuousness of the Spanish grandees, gave the tone to the manners of the Nobility and courtiers of the

* Guicciardin—Treaty of Madrid Fædera, tom. 14. *Ustarez, Ulloa.*

† *Ustarez—Ulloa.*

the rest of Europe for half a century, who imitated their state, altho' they could not imitate their expence. One instance of their extravagance may suffice. It was the * custom in great entertainments, that the master of the house divided among his guests, who did not play, the money which he had won from those who did. The consequence of all this prodigality was, that little of the produce of the home-industry was exported, and thereby one great source of wealth ceased. Another consequence was, that the wealth of the Indies passed only rapidly through Spain, to purchase the produce of the industry of other nations, for the use of her and her dominions, and thereby one great source of poverty was opened: Philip II. with all the wealth of the Indies, made a public bankruptcy: Philip IV. coined copper, because he had no silver to coin. Taxes upon manufacture rose so high, that some † Spanish writers of good authority, assert it is the interest of several kinds of Spanish manufacturers to sit idle. Prices and profits rose so high ‡, that foreigners could carry

* *Voltaire hist. universelle, tom. v. chap. clxxiii.*

† ——— Ulloa, chap. iii.

‡ Ulloa, chap. ix.

carry off the wool of Spain to their own countries, work it up there, return it in cloth to Spain, and afford it cheaper to her inhabitants than they could work it up for themselves; and home-consumption and imports increasing, while exports were decreasing,—Spain ceased to flourish.

France, in the reign of her boasted monarch, saw both the rise and the fall of prosperity, in this gradation of human affairs. She had not the wealth of the Indies, like Spain, to set the industry of her people on a sudden in motion; but she had the magnificence and extravagance of a young monarch, whose example had the same influence over the manners of his subjects, as the laws of other supreme powers have over theirs; and this operated the same effect: For, whenever wealth dissipates, whether coming from the Indies, or from the ruins of the rich, industry will spring forwards to furnish to its desires. Lewis XIV. encouraged the extravagance, from temper and passion; but Colbert, from principle, encouraged the industry which was to supply the demands of that extravagance, and which would otherways have been supplied from other countries to the im-

impoverishment of his own. Every project in the arts of industry was protected by the prince and his minister, and assisted by the genius of a nation which they had modelled on their own. The consequence was, industry exerted all her powers, she raised more than the home-demand called for; and a foreign exportation bearing a large proportion to the home-consumption took place. France was then at her acmé of prosperity in Europe. But Lewis stopt not the extravagance where he should have done it; and, which if he had done, the home-consumption would have decreased, and the foreign exportation increased. On the contrary, he was extravagant himself, and, with the exception of one or two periods of distress, continued extravagance in his people to the end. The sage Colbert died too long before his master: the point was not marked where the flow of exportation stopt, and the ebb began. The consequence was, that the home-consumption continued to increase beyond its due proportion; his people subsisted by ruining and plundering one another, instead of making gain of their neighbours;

bours; the sovereign contracted * above four milliards of present French money, of debts; the inferior classes of the subjects, overwhelmed with the burdens of taxes, which they were willing but unable to bear, sunk under the weight; and France, in the year 1715, was no longer what she had been betwixt the years 1670 and 1680.

The insults offered by the Dutch ministers † to Louis XIV. in his attempts to treat with them in the year 1709; the little ceremony observed by the English ambassador ‡ to the Regent of France; and by the English to the Spaniards, ever since the beginning of the present century, shew to what a cruel degree of humiliation a nation is reduced, whose nobility and gentry have been indulged in the habits of dissipating their fortunes; whose merchants are languishing from the decrease in exportation; whose artizans are overwhelmed with taxes; and whose supreme power is incumbered with debts.

In every nation where there is a danger of the imports exceeding the exports, these

consequences

* *Siecle de Louis XIV. chap. 30.*

† *Siecle de Louis XIV. chap. 21.*

‡ Earl of Stair.

consequences, from the excess of home-consumption, are palpable. Nations see them, and provide against them. Sumptuary laws are enacted by some: Vain attempt! No laws of this kind can bind the wealthy or the powerful. Prohibitions of the importation of certain articles, or duties on them so high as to amount to a prohibition, are made use of by others. But this is equally vain: Prohibitions, and excess of duties, are in most nations only premiums to smuggling, and insure its success: Nor can they at all take valid effect in a nation like this, which often runs into a taste, merely because it is a forbidden one, and considers restraints on its vices as restraints on its liberties. A spirit of economy in the individuals of a trading nation, may maintain a superiority of export over import for a while, as happens in Holland; but this spirit is accidental, government cannot command it, and its duration is uncertain. There is but one way to restrain the extravagance of the luxurious portion of a trading people, which is, to allow them to restrain themselves. Permit men by law to entail their estates, and the check will arise from the people itself. There is no other way, by which

which the extravagant may be compelled to be frugal, and yet their rulers escape the imputation of compulsion *.

S E C T.

* Hear the sentiments of Mr *Locke* and of Sir *William Temple*, upon the consequences of unrestrained expence in the individuals of a trading people. "A kingdom grows rich or poor, just as a farmer doth, and no otherwise. Let us suppose the whole isle of Portland one farm; and that the owner, besides what serves his family, carries to market to Weymouth and Dorchester, &c. Cattle, Corn, Butter, Cheese, Wool or Cloth, Lead or Tin, all commodities produced and wrought within his farm of Portland, to the value of a thousand pounds yearly; and for this brings home in Salt, Wine, Oil, Spice, Linen and Silks, to the value of nine hundred pounds, and the remaining hundred pounds in money. 'Tis evident he grows every year a hundred pounds richer, and so at the end of ten years will have clearly got a thousand pounds. If the owner be a better husband, and contenting himself with his native commodities, buy less Wine, Spice, and Silk at market, and so bring home five hundred pounds in money yearly, instead of a thousand pounds, at the end of ten years, he will have five thousand pounds by him, and be so much richer. He dies, and his Son succeeds, a fashionable young gentleman, that cannot dine without Champagne and Burgundy; nor sleep but in a damask bed, whose wife must spread a long train of brocade, and his children be always in the newest French cut and stuff. He, being come to the estate, keeps on a very busy family; the markets are weekly frequented, and the commodities of his farm carried out, and sold as formerly, but the returns are made something different; the fashionable way of eating, drinking, furniture and clothing for himself and family, requires more sugar and spice, wine and fruit, silk and ribbons, than in his Father's time; so that, instead of nine hundred pounds *per annum*, he now brings home of consumable commodities to the value of eleven hundred pounds yearly. What comes of this? he lives in splendor, 'tis true, but this unavoidably carries away the money his Father got, and he is every year a hundred pounds poorer. To his expences beyond his income, add debauchery, idleness, and quarrels amongst his servants, whereby his manufactures are disturbed, and his business neglected, and a general disorder and confusion through his whole family

Objections from the interests of the industrious poor considered.

It may be thought, that the hands of many of our industrious will be thrown idle, by this check upon the expences of the luxurious. The objection is important, let the truth of it be tried.

A nation which has a great interior, but no exterior commerce, like some of the Eastern

“mily and farm. This will tumble him down the hill the faster, and the rock which the industry, frugality, and good order of his Father had laid up, will be quickly brought to an end, and he fast in prison. A farm and a kingdom differ no more than as a greater and a less. *We may trade, and be busy, and grow poor by it, unless we regulate our expences.* If to this we are idle, negligent, dishonest, malicious, and disturb the sober and industrious in their business, let it be upon what pretence it will, we shall ruin the faster.” — [Locke's considerations.] Sir William Temple speaking of the frugality of the Dutch, says, “It will thence appear, that some of our maxims are not so certain as they are current in our common politics: as, *That example and encouragement of excess of luxury, if employed in the consumption of native commodities, is of advantage to trade.* It may be so to that which impoverishes, but not so to that which enriches a country. It is indeed less prejudicial, if it lies in native, than if in foreign wares; but the humour of luxury and expence cannot stop at certain bounds: what begins in native will proceed in foreign commodities; and tho’ the example run among idle persons, yet the imitation will run in all degrees, even of those men by whose industry the nation subsists. And besides, the more of our own we spend, the less we shall have to send abroad; and so it will come to pass, that while we drive a vast trade, yet, by buying much more than we sell, we shall soon come to be poor.” — *Observations on Holland.*

Eastern nations, must dissipate and circulate, because a stagnation of expence would be attended with a stagnation of work, and thereby the industrious would want employment and bread; in which case they would either die out in silent misery, or burst into open civil dissension; but where a nation has a vent for the produce of her industry in exportation, there is no fear that her artizans will want employment, as long as they can afford their work cheap. Will our exportations to foreigners diminish, because our people, living in a more frugal manner, are enabled to furnish their exported commodities at a more frugal price? On the contrary, prodigality at home, is always attended with dearness of labour and commodity; and dearness in these, is the very heaviest of all loads upon exportation. What throws hands idle, is not a regular known, progressive demand, but a desultory, unknown demand, that is sometimes progressive, and sometimes retrograde; to supply which the industrious furnish too much one year, when their profits sink too low, and too little another, when they mount too high. As long as the dissipation of private fortunes is allowed and encouraged, it is impossible that the quantum

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quantum of the demand for home-consumption can be known; because it depends on caprice, on fashion, and sometimes on a national frenzy of expence, such as seized Rome during the destruction, and immediately after the destruction of the republic. But it is not difficult for merchants to know the extent to which they may prepare their supplies for the foreign demand; because it depends entirely upon motives of interest; when prices and profits at home are high, it will be low; and, in proportion to the lowness of these, it may be almost infinite, or at least, such as the merchants need have no fear of over-stocking. Laws contrived to check the dissipation of private fortunes in any set of men, are contrivances to ascertain the quantum of the demand, for the produce of the industry called for at home by such men; because they reduce them to spend only their annual income, or a little more; and the extent of this, it is not difficult for merchants, or for a State to find out. The consequence is, that the demand and supply at home being even, prices will proceed on known principles; and therefore will be equable, and will be low. But the demands of the luxurious at home,

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home, are desultory and limited, whereas the demands of foreigners are steady and unlimited, as long as you can attach them, by the surest of all human attachments, their own interest. And therefore the industrious will find themselves, like the Dutch, compensated for the diminution of their profits, by the sureness of them, and by the extent of their foreign dealings.

But, in the next place, if it should happen, which never will happen as long as prices are low, that foreigners should call for somewhat fewer of our commodities, because we call for fewer of theirs; we have a vast vent, and progressive in its vastness, in our own Colonies. The Colonies we formerly had, have been extending for ages in an uniform, uninterrupted, and speedy gradation, in their demands for the produce of European industry: more Colonies are now added to them; and these too must extend from natural causes which never fail, in the same uniform, uninterrupted, and speedy gradation in their demands for the same produce.

The increase of demand for the produce of the industry of a nation, is the foundation of opulence; a stoppage in it

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is the first prognostic of impending ruin: and, therefore, it is the duty of government, to make preparations for the colony-supply, and to take care that the progress of it keep equal pace with the progress of the colony-demand. If this is neglected, Britain must supply it with the commodities of other European nations, and not with her own: In this case, *only some* of the British subjects will have *only* the profits of the factor who receives a commission, purchases, and transports. The lately acquired French and Spanish dominions may still be supplied with the commodities of France, and in time perhaps of Spain; and we shall have all the expence of supporting them while their original proprietors will have all the benefits of their former connection with them. A wise reason for preferring acquisitions in French North America, to acquisitions in the French West-Indies, at the late peace, was, that it was impossible for Britain to be ready at once, with her own manufactures, to have supplied the demands of Colonies already fully settled; for there is no getting manufacturers in a moment, in a country where every one is employed: whereas she had it in her power, to gather, and to enlarge

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enlarge preparations for the supply of colonies, that were gradually enlarging. Now, every check upon home-consumption, is a fund for supplying this immeasurable, external, colony-demand. The demand is progressive; the supply ought to be progressive too: if men were allowed to entail their estates in Britain, they would entail them only by degrees; and every new entail is a restraint upon the dissipation of one family at least, and so far operates an extension of the fund for the supply of the foreign-demand.

In modern times, that man passes for the best politician, who can invent a remedy for an evil arisen: but the antient legislators prevented the evil itself from arising. The laws of Solon, of Lycurgus, and of the Decemvirs, with the consent of whole nations, were not partial cures to partial diseases; but looked forward to futurity, and made provision for contingencies before they could present themselves. The answer of Themistocles to a person who wondered at his not knowing some trifling accomplishment, that, "tho' he knew not "it, yet he understood how to make a "great city of a little one;" was the expression

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pression of a minister who thought in this manner.

S E C T. III.

Political period of dissolving Entails.

There is but one period in the state of an extensive society, where full latitude should be given to the dissipation of individuals; and consequently where entails, which present that dissipation, should be prohibited: and that is, when a nation has no manufactures or trade, but is well situated for them. An extensive nation without trade, generally consists of three classes of men; a numerous peasantry who rear very little food, in proportion to the capacity of the soil and climate, and most of which little, is eat by the very persons who raise it; a small number of artizans, who supply the members of the society with the very few necessaries they need, beyond those of food; and a gentry entirely idle, who are furnished with that food, and those necessaries from the other two classes, without paying any thing, or at least on paying a perfect trifle, for them in return. The two former of these classes, from their dependence, will be slaves to the

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the last; and the last, from their independence, will be rebels to the Supreme power. Wealth, that great spur of human industry, will be of no use in the hands of the wealthy; because it consists chiefly in large possessions of land, and in the corn, cattle, and other produce of that land, which produce cannot be turned into money, in a State where almost every one provides himself in almost every thing, or forces it from others. It therefore will be spent in maintaining a number of idle retainers, not given in an exchange for the commodities produced by the exertion of the industrious and ingenious. An increase of wealth will not only do no good, but it will do much hurt in such hands; because it increases the proportion of those idle retainers; it attaches them more firmly to the person who maintains them, and makes a little fortress of every baron's castle, and a little army of those who live upon his estate. It is well said by the elegant and picturesque Dr Robertson, that, "in every corner of the land, in feudal-times, lived a great lord, who neither feared the king, nor pitied the people." A nation, in this situation, if the transition of land-property is

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is rendered unweildy by entails, may flumber on for ages; happy perhaps, but ignorant in the arts of life; brave, but weak, in durable effort; and tho' active, yet active to no good. To continue entails among such a people, is like the laws of Lycurgus, to make the same system of circumstances, whether good or bad, eternal in a nation. Perhaps this, or something like this, was the state, from which Henry VII. wished to deliver England, and the independence of the crown, when, according to the authority of Lord Bacon, he laid his scheme, for the dissolution of the great families, by obtaining a law, giving latitude to the dissolution of entails.

Mark the consequences which must naturally follow from such a latitude given to a people under the circumstances I have just mentioned.—There is no extensive nation, however rude, or however much limited in the transmission of land-property, but must have some taste for luxury; by which I mean a taste for unnecessary articles of expence produced by the ingenuity and industry of the artizan; and these are at first generally imported from nations more refined in the arts of life.

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In old Records, we find great expence in costly dresses, and worked plate, amongst even the most frugal of our English and Scotch ancestors. But a taste for superfluity, once got, is apt to extend itself; nothing checks it, but the want of money, or of credit: furnish these two, and men will indulge it to the full of the powers given to them. Now the immediate effect of laying open entails, is, to enlarge the credit of the landed men, who, finding the means of purchasing superfluity more easily than formerly, advance with eager steps, in their pursuits after it; they confound artificial, with necessary wants; they call for a thousand luxuries of life, without knowing they are luxuries; and wants, before unthought of start up, and multiply upon them, when they find they can purchase whatever their desires can suggest. But the commodities of luxury, which were originally furnished from abroad, come now to be furnished by the artizans at home; for unless there be a taste for superfluity somewhere, there will not be a taste for labour any where. These increase in number, and ingenuity; a multitude of new hands join them, from that numerous class which formerly only tilled

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tilled the ground; interest, emulation, push on both the new and the old: and as the great formerly plundered the poor, the poor now plunder the great. A new set of men, too step in, and assist in the ruin of these last; to wit, those who supply them with money at interest. Encompassed in this manner, the old proprietors of the land, now freed of their entails, first dissipate among thousands, in their pleasures, the ready money of the country, most of which was in their hands; they then borrow, and mortgage their lands in security of the money lent; and in the end, sell their lands in satisfaction of what they cannot pay. All this, it is true, does not add to the national stock of money, for nothing but exportation does that: it adds, however, to the national stock of industry, and of an idle and rude, makes an industrious and ingenious people. The want of taste for superfluity had locked up, not only the industry and ingenuity of the nation, but almost all the money that was in it; the taste for superfluity, on the contrary, having now withdrawn money from the luxurious, and dissipated it among the industrious, it is constantly shifting its place; it finds its way into the hands of every

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very son of industry who will exert himself; in its circulation it gives employment, and creates activity, wherever it passes. The effect of all this is, that on the ruins of those who held it for ages, it rears up an extensive *inland commerce*, in the hands of those who do not hold it for a minute.

But this is just what a nation needs, which had formerly no trade, and which has felt its weakness from that want. An interior circulation is the object at which such a nation must first aim; foreign only follows after the inland commerce; and the increase of the national stock of money only follows after the foreign commerce. But, to attain this inland commerce, a nation in the situation I have described, must submit to all the fatalities attending dissipation, profusion, the misery mixed with the happiness of individuals, and the ruin of the very best part of her citizens: for, as frugality at home is the basis of foreign trade, as I formerly shewed, so luxury at home is the basis of inland, where there is no foreign trade. In this view, entails were as detrimental to the interests of trade in the reign of Henry VII. as they would be inoffensive to

to them in that of George III. To destroy them then was as necessary, as it would be impolitic now. The ruin of the great only followed from undoing them then; a hurt to the whole might follow from destroying them now.—There are few laws abstractly good or abstractly bad. The best laws are those which are made, by the power which enacts them, to vary as circumstances vary.

It is very superficial in people, to obtrude constantly the example of England, as a bar in the way of all reasoning upon the good effects of entails; and to think that as England first thrived by laying her entails open to dissolution, so she has since thriven by never permitting them to return, and by the most easy and free transition of land-property: on the contrary, there are few countries in Europe where the transition of land-property is less easy and free: England has a far greater proportion of land-property locked up from commerce than Scotland has. The rule of the common law, that the heir is not liable to the debt of his ancestor, except to the extent of the assets come to his hands, is a law of entail of all the lands of England, unless where the ancestor has created

ated a security upon the land-estate during his life: The rule of the common law, That the wife shall have her dower of lands, against her husband's creditors, is another embargo upon the transition of land-property, during her life at least: the entails of England, limited in their duration as they are, yet always operate a limitation, upon alienation, to the extent of that endurance: and the English trust-settlements in marriage-articles, are a repetition and continuation of withdrawing from sale, near one half of the land-property of England, from generation to generation. If land-property is locked up, it is just the same whether that happens under authority of a law-book, or under the manners and practice of a nation. And, it imports nothing either to the nation or to my argument, in whose hands it is locked up, provided it is withdrawn from commerce. Now, in this view, compare the proportion of the land of England, with the proportion of the land of Scotland, locked up at the same time from sale, and you will find how greatly the former will, at any given period, exceed the latter.

C H A P. VI.

Fifth Consequence of letting Entails die out.

“**F**FIFTH consequence: Antient families would sink, and, together with them, all those honourable ideas which attend respect for family.”

The consequences are very bad for a nation, when those in the coaches, and those on the back of them, are accustomed to change places with each other. Now, in a country where there is little luxury, or opportunity for expence, a family may last for ages without an entail; and accordingly, in some nations, families have stood long, though not supported by entails. But in Britain, at present, where there is a gradual and a great inequality of fortune, which makes rank vye with rank; and where there is a great opportunity of expence, it is next to a miracle if a family lasts four generations, unless the representatives of it are restrained from ruining themselves. This danger too, is more imminent in Scotland than in England; for, with

with the same love of pleasure, we have not the same funds to support it: an English estate will stand its ground against two or three fools in succession; but a single spendthrift ruins a Scotch one. It is also in Scotland more imminent in those who have entailed estates, than in those who have not; because the former, being generally men of better families, are more exposed to expence than the latter.

I have known men, whose opinions I esteem, apt to laugh at this idea of family as trifling and unsubstantial. But all history is full of the real effects of it: for, as antient families are an ornament to a nation, in times of prosperity; so, in times of distress, either from the efforts of tyranny or of invasion, they are a sure wall behind which the common people run naturally to form and to rank themselves. But a nation without families will either become unfeeling to its liberties, or abuse them. Such a nation is a mere rope of sand void of cohesion, and will slide away at the very instant when government most needs its assistance.—The *principes*, or men of family in Italy, Spain, Gaul, Britain, and Germany, made the first and the last stands against the Roman attempts to in-
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slave the world.—The Romans ranked behind Pompey and the Senate, in defence of the constitution, against Cæsar and an invading army; the Dutch behind the family of Orange, against domestic tyranny and foreign invasion; and the Hungarians behind their nobles, in defence of their common, civil, and religious liberties.—The Roman Emperors, as we see from Tacitus, could find no way of extinguishing liberty, but by destroying the men of the noble families in Rome; and were forced to incur the imputation of being monsters, because that was the only means by which they could be secure of continuing to be sovereigns.—In all the arbitrary governments of present Europe, the last defence against arbitrary power was made by the Noblesse; by which I mean what Harry IV. of France did, when he said to his States assembled at Rouen, “*La qualité de Gentilhomme est notre plus beau titre;*” that is, not only those who have hereditary titles and rights, but all those who are well born. It was against the Noblesse of Europe, that Louis XI. and Richelieu in France, Ferdinand, and Charles V. in their vast estates, Harry VII. in England, the house of Stuart in Scotland,

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land, and Frederic III. in Denmark, directed either their arts or their violence, as the only sure means by which they could enslave that commonalty whose interests they pretended to have at heart. The fall of the higher is almost always attended with the ruin of the political liberties of the inferior orders of the State. These princes saw this consequence, they proved it, they tried it, and they or their posterity experienced the truth of it in every country but England; that country, which is an exception from all common consequences, wherever the most distant interests of liberty are in view.—It was the families of Britain, who have constantly defended the British constitution; and the only time it was ever destroyed, was by a set of men, who wished to bring all mankind down to the mean level of most of themselves: it is a curious fact in the history of human character, with regard to Cromwell*, that the same person who got the House of Lords voted to be no necessary part of the constitution, got a committee named to destroy the entails of England, even limited in their duration as they are.—In France we see one part of the Noblesse exposing themselves,

* Rushworth.

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selves, every day, to death in the field, wherever ordered, for the glory of a country, the liberties of which another part of that Noblesse is asserting, with the spirit of Britons, and the dignity of Romans.—The Eastern empires, on the contrary, have, in almost all ages, been both easily enslaved and easily conquered: one or two bold actions generally determined their fates; because in almost no age have they had a hereditary, authoritative, intermediate rank, who could maintain resistance against an enemy, after the Sovereign was fallen, or rouse it against him when he trampled upon human nature.—Turkey, from want of families, is the only complete despotism in Europe.—The present Germans, from their Princes laying out their treasures in buying up the land-property of their subjects, are running into a situation which will resemble that of Turkey too much: for that state of despotism is, of all others, the most irretrievable, where the antient families of a country, being divested of their estates, there is no rank in the State, except that of Prince and Tenant; terms which will soon be converted, if not in name, yet in effect, into those of Master and Slave.

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It is this single idea of family, which has kept the Scots a respectable people, from the most distant periods of their history. It was this, which in antient times made them brave in war, and courteous and gallant in peace; tho' perhaps, like the thistle in their device, a little rough upon provocation: and it is this, which, since the union of the two kingdoms, has carried them on in arms; in the State; in professions; in letters; and even in trade, tho' slowly, yet perhaps as fast as the disadvantages of their remote situation, of their soil, climate, and produce, and of their coming so late into trade, in comparison of other commercial nations, will admit: where almost every man feels himself a gentleman, almost every man exerts himself to preserve his distinction. Perhaps this idea may lead to a little pride; and if it does, perhaps there is no great harm done. The Romans were proud, and they conquered the world. The Spaniards are proud; and, tho' unfortunate in many respects, yet their attachment to the *justum et honestum*, does honour to human nature. When an individual or a public loses the feeling of right pride, the one ceases to be a man, and the other to be a nation. It is a dangerous

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gerous thing to tamper with, and change the spirit of a people, when that spirit is a good one; because nobody can foresee what spirit may come in the place of it. The Dutch, in the year 1714, were amongst the bravest soldiers in Europe, and, in the year 1744, were no longer what they so lately had been.

It is the fashion of the times, to allow mercantile considerations to enter too much into the scale of political deliberation; as if weavers and blacksmiths were the principal part of God's creation. But a wise government will consider, that it has an interest in every rank of its subjects: that the husbandman, the artizan, the merchant, and the gentleman, all fill their places, have their provinces in the society, and are equally the objects of its attention and favour. Such a government will think itself as much bound to preserve the high spirit of one set of men, as to encourage the industrious spirit of another. Britain has an advantage, which no nation, ancient or modern, ever had, of containing within herself at once, a great class of high-spirited gentry, and a great class of industrious honourable traders; so as to join all the offensive extended force of a rich,

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rich State, to all the defensive obstinate strength of a poor one. France has the gentry, not the traders in proportion; Holland has the latter, not the former: as Britain has both, the interests of both should be equally dear to her governors.

If the landed men of family, of a country like Britain, could be turned in general into merchants, the gain would be trifling, the loss solid. But indeed the thing cannot be done. The ideas and sentiments of the two orders of men are so perfectly opposite, that it is almost impossible to graft the one upon the other: trade requires a minute attention to minute objects, which it can hardly be expected, men bred up with the views of affluence and superiority, can submit to. I do not say their habits are right; I only say they are founded in human nature: The French have been attempting ever since the time of Colbert, to make the conditions of the two orders of men compatible, but all to no purpose. The destruction of entails in Scotland would make many individuals poorer, but the community not one farthing richer.

I have been told by a merchant, whose depth of observation is equal to his accuracy

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racy, that of all the present London merchants who have made large fortunes by trade, there is not one who began the world with above a thousand pounds in his pocket; exclusive of those who had the good fortune to continue the houses which their predecessors had set in motion, and which always do move on like a machine, without the exertion of any new industry. With so striking an example before our eyes, is it not strange, in many in Scotland to think, that by exposing our men of entailed estates to ruin, we shall load them with wealth: indulging them in a latitude of expence, will expose them to the former; their avoiding trade, or their bad success in it, will prevent the latter.

Perhaps the support of families, almost always expedient, is *now* necessary in Britain. Those who look at the domestic history of England for a century past, without the prejudice of party, will see, that the monarchical and aristocratical parts of the constitution have yielded considerably to the democratical part of it. The two former, perhaps, now need that help, which the latter once needed. Some late disorders only prove the abuse, but not the duration of liberty: for if one part either
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of the constitution, or of the nation, inroads upon another; that exact poise, in the different parts of both, which has made the wonder of mankind, and in the preservation of which alone liberty is secure; may be difficult to be recovered. The reign of Charles I. is not the only instance in the later English annals, which shews, that an English king, and an English constitution, have more to dread from popular demagogues, than from the illustrious offspring of antient statesmen, patriots, and heroes, tho' adorned with titles, and loaded with riches. A solid and lasting nobility and gentry, are the best barriers against the invasions of the crown, and the false popularity of particular men, and the insolences of the rabble.

But if the advantage of supporting men of family is great; the danger of letting them fall into distress is still greater, both to the liberty of the subject, and to the tranquillity of the State; because these, when in circumstances of distress, will become, either the meanest, or the most desperate of mankind. Go into the antichambers of ministers, over the most part of Europe, and you will find them crowded with birth and indigence: look at the
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fields of rebellion, and you will see them strewn with men of the best blood, and often the best spirits, but whom misfortunes have driven into measures of despair. Had these men been protected by proper laws and politics, the former might have been the firmest assertors of liberty, and the latter the bullwarks in war, of their country.

But if the support of families, is of consequence to the general interests of Britain, the support of them in Scotland, is of peculiar consequence to *her* interests. Were *our* entails in Scotland to be destroyed, the country would be crowded with men of L. 200 or L. 300 a year fortune. Our own luxury, and the contagious imitation of English luxury, would soon bring on an equality of fortunes with a vengeance. But removed far from the seat of government, and the attentions of legislation, as we are, are these the men to represent our grievances, to complain of our insults, if either should be offered; or to procure the execution of national schemes for our good? There is a boldness and kind of becoming insolence in independence of fortune, that insists to be, and will be heard; but in poverty, unless attended

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tended with unusual vigour of spirit, there is a timidity, that cannot speak for itself, and is not listened to, when it does. Our countrymen are complained of, for their dependence upon ministers in parliament; the reason is, that most of those whom ministers see, are dependent in their fortunes. When the same man goes up without fear, to the mouth of a cannon, pointed against him; yet trembles in the presence of a man in power, as if he was a being of a superior order, and could take from him his honour or talents, as easily as withhold from him graces, which, in comparison of these two are but trifles; the dejection, arises not from meanness of spirit, but from the depressions of fortune. Can a scheme, the natural consequence of which is, to take independence from the few independent amongst us, be for the good of Scotland? Will it not hurt Britain, by throwing the weight of the Scotch part of the British legislature, constantly on the side of whatever minister is uppermost? The miserable dependence, and total insignificance of almost all the Scotch Burroughs, arising from the poverty of individuals, may show both Scotland and England, what they have to expect from the equality,

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equality, that is, from the poverty of individuals in the Scotch counties.

I am not ashamed to confess, that I am touched with other effects, to appearance more trifling, which will follow from that equallizing of fortune, wherewith the destruction of entails must be attended. The English mob, by which I mean the high as well as the low mob, when the high forget themselves, despise their Scotch neighbours for their poverty; they do not despise their Irish neighbours for the same poverty; yet the lower classes of both countries are equally poor: but the difference is, the rich of the Irish who are seen in England, are more wealthy, than the rich of the Scotch who are seen there; and the wealth, and consideration of individuals, by a common association of ideas in human nature, throws always consideration on the nation to which they belong. We lately saw, what was never seen in Britain before at one time; a virtuous Prince, and a virtuous minister, acting together, on the fairest principles of wisdom and liberty: when the efforts of faction and malevolence could not attack that minister on his own poverty, they did it on that of his country. It is true, men

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men of sense despised the topic: but is a nation made up of men of sense? Ninety nine out of one hundred of the human species, are guided by prejudice; and the prejudice of contempt, is as strong a mover as any in the human breast. Accelerate the allienation of the estates of the men of family and rank in this country, by laying open their entails, and the popular contempt of the weak, among our neighbours, will be doubled against us. Many politicians will think this a trifle: but there is nothing a trifle in politics, which operates strong effects on national opinions. Mutual contempt disunites nations, mutual respect cements them; without this last, their very union will only make them more strongly to detest those bonds which tie them together.

C H A P. VIII.

Objections to Entails considered.

I. **T**HE common objection to entails of land is, "That they stop the progress of agriculture," and this for two reasons: the first is, that the proprietor himself

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himself will not lay out money upon improvements; because the benefits of them are not at his own disposal, but fall to the heirs under the entail, who, in some instances, may be very remote relations to him. The other is, That the lessees will as little lay out their money upon improvements, because the leases upon entailed estates are short.

I acknowledge the fact, and in Scotland it is too melancholy a truth. But the objection does not arise from the nature of entails; it arises only from improper conditions allowed in them; and these ought, by law, to be abolished in past, and prohibited in future entails. Leases cannot be let above 21 years or three lives* in an English entail by public law; by private conditions imposed in many Scots entails, they cannot be let for more than three or a few more years; and in neither country can entailed lands be granted in fee-farm, or feu, though at the full rent at the time of the grant; nor alienated, though with reservation of a rent-charge equal to the rent at the time of the alienation. But suppose that very long leases, and that fee-farms, and feus, and

* Statute-book, anno 32. Hen. viii. cap. 28.

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and deeds of alienation, with proper reservations, were authorized by law; the objection to entails, drawn from the interests of agriculture, would entirely fly off. When the lessees or others intended to make improvements, they would purchase such grants from the land-lords; after which they would lay out all their money and double their industry upon the purchase, when they knew that all the fruits of both were to be their own. When the proprietor himself intended to make improvements, the money thrown into his hands by these purchases would enable him to make them, and he would grant off the lands he intended to improve, in trust for his own behoof; in order to be certain that all the benefits of his improvement should be at his own disposal.

Perhaps purchases of this kind are the surest means, by which improvements can be brought about, in a soil and climate like that of Britain, which require good stocks in improvers before improvements can be made. In the ordinary way of making a purchase, a man who has L. 2000 to lay out upon land, pays it down now, for a subject which yields him perhaps L. 80 rent, and he pays nothing afterwards: but,

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if he purchased a fee-farm, feu, or alienation, in the way I have mentioned, he would pay L. 80 a-year for ever, and perhaps L. 200 down at first. In the first case, all his money is spent upon the purchase, and he is unable to attempt any improvements afterwards; but, in the other case, as it is to be presumed the land will always answer its own rent; the purchaser has L. 1800 to lay out upon improvements. The consequences would be these: the old proprietor would be more sure of his rent than he was formerly; the new proprietor would, by his improvements, create a new estate upon the old one; and in the prosperity of both there would be a national gain.

When a man lays out his money upon the purchase of land, in the present way, he seldom does it with a view to improve it, he does it merely to get a security for his money; he lays it out upon land as he would upon an Indian bond, and the nation is as little the better of the one transfer as of the other. But, if it was customary to purchase land by giving for it an annual sum near its annual value at the time of the purchase, people would buy with the only view in which the nation

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tion has an interest, that is, to make those acres worth pounds which are now only worth shillings. And, if this practice was to become frequent, men might perhaps find the Indies in many parts of Britain, as well as in Asia and America.

One would think it should require little logic to prove, that independence of possession, in those who cultivate the ground, is the best means to procure improvement upon it; seeing it is natural for men to bestow more industry on what is their own, * than on what is another's. In countries where the soil and climate produce spontaneously, this perhaps is of little consequence; but, in countries, where the exertion of industry is requisite for the cultivation of land, the enjoyment of, or the want of this independence of possession, are the true touch-stones by which the state of improvements of lands may be discovered: Muscovy, Poland notwithstanding all the noise that the exportation of her grain makes, the hereditary countries of the Empress notwithstanding their being in the most temperate climates of the world, and Scotland notwithstanding her neighbourhood to England, are instances

* *Aliter utimur propriis; aliter commodatis.* Quintil.

instances where the ground is ill cultivated, because the possessions of those who labour it are dependent. Switzerland, the Low-countries, and England, are examples where land is highly cultivated for a contrary reason: and France would be also an instance to this last purpose, was it not one of the state-maxims of the government of that kingdom, to oppress, by exactions, the cultivators of the ground, in order to raise the condition of those in the cities, the camp and the court. In short, from almost one end of Europe to the other, it may be observed, that, in proportion as the state of possession of those who cultivate the ground is dependent or independent, the ground is well or is ill cultivated.

Now almost all entailed estates in Scotland are low-rented; because almost every tenant in tail takes a fine to get money into his own hands, rather than an advanced rent which his heirs are only chiefly to enjoy; and therefore the present lessees and others would be abundantly ready to enter into transactions for independent grants of entailed lands at such low rents. It is a maxim in every body's mouth in Scotland, That the country never will be cultivated,

cultivated, nor the country-people made free, until long leases are granted to the tenants: but, though every body says so, no body grants them. That is a wise law which draws good out of a seeming evil, and which, without compulsion, gets men to do for their own sakes, what they would not do for the public. People whose estates are not entailed imagining that feus hurt the value of an estate in the eyes of purchasers, are unwilling to grant feus; and the laws cannot compel them: But those whose estates are entailed will, of themselves, without persuasion and without compulsion, give independence to those below them, if the laws will permit them to do it.

There are two limitations however which ought to be put upon this latitude, if permitted; as the rents of entailed estates are, and in general always must be low; as most men of entailed estates want ready money; and as all tenants are fond of turning their dependent leases into independent feus or purchases; the infallible consequence of the latitude would be, that, in a very little time, almost all the leases upon entailed estates would be turned into feus, or purchases with reserved rents.

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But even the first of these is, in truth, a property; and therefore though the tenants in tail would be secured of a rent, yet the proprietors of a great part of the land would be changed. But all sudden revolutions in land-property are attended with consequences not easily to be foreseen: one consequence which no one can fail to see, is, that the tenants of estates which are not entailed would all run to get feus or purchases from the proprietors of estates which were; by which the proprietors of the former estates would be hurt; and therefore it would be a proper limitation upon the latitude of feuing, or alienating with a reservation of a rent, that each successor should be limited to grant off no more than a fifth, fourth, or third of the entailed estate. By this means the leases would be turned into feus not at once, but by regular, proper, and unperceptible degrees.

The other limitation proper to be put upon the power of feuing, would be, that no proprietor of an entailed estate should have it in his power to feu off the mansion-houses upon his estates; nor certain proportions of the lands, such as a third or fourth part around them. Without this limitation,

limitation, the present landholders might, in time, lose all connexion with the country, and all authority in their countries.

II. Another objection to entails equally common is, "That they weaken the hands of trade, by stopping the credit of landed-men."

There are, no doubt, disadvantages to trade, from stopping the credit of a number of the landed-men of a country; but there are likewise advantages from it even to trade herself. The value of the objection therefore depends upon which of these overbalances the other; and if people will think with clearness, and reason with fairness, it is not impossible to ascertain on which side the balance lies.

In stopping the credit of a number of landed men, trade will suffer two losses: in the first place, when landed-men sell, or borrow, in order to enter into trade, or are surety for those who are in it, they serve the interests of trade to the extent of these sales, borrowings, or suretyships; because to that extent they increase the quantity of the force with which she conducts all her operations, which is either money or credit: and if these powers over property are barred, trade is a loser, to the extent

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tent that they would have been made use of in her service. In the next place, whatever a landed-man consumes of the produce of industry, more than his annual income, is so much gain to trade; for the artizan and merchant supply most of his consumption from the stores of trade; and on his profusion, folly, and ruin, do, very soberly, make themselves exceeding rich: and therefore, when a number of landed-men are debared from running their estates out, trade is a loser to the extent, to which the extravagant would have indulged their extravagance in purchasing her commodities, had they not been prevented. I cannot discover any third circumstance in which trade can lose, in circumscribing the credit of a number of landed-men.—The former of these uses of credit, upon land-property, may be reckoned a judicious use; the latter is an injudicious use of it.—Now I imagine, that the quantum of the gain lost to trade, by a stoppage of the *judicious* use of credit upon land-property, by its proprietors, will not be very considerable: the persons on the exchanges of London, Bristol, Paris, Lyons, Amsterdam, &c. who have sold, or mortgaged their land-estates to turn merchants, will be found

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found, I suspect, to be mighty few in number; and tho' trading people in Britain are abundantly liberal of credit in the way of trade, because it is every body's interest it should be so; yet I am afraid the sums borrowed on the credit of landed-men, to accomodate friends and relations in trade, are by no means so extensive as those friends and relations would wish. Compare the sums borrowed by landed-men to pay their own debts, or to prepare the way for new debts, with the sums borrowed by them to serve their friends in trade, and there will be found a mighty disproportion betwixt the two.—Again, with regard to the interests of trade, as affected by a stoppage of the *injudicious* use of credit upon land-property; it is obvious, her gains are only desultory and transitory. For, if a man of a L. 1000 a year, buys betwixt L. 20,000 and L. 30,000 of the produce of industry in one year, he cannot take of her commodities to the extent of L. 1000 every year after, as he was formerly accustomed to do.

But is this last gain, namely, that arising from the dissipation and ruin of many landed-men, all true gain? I am afraid, it is not: in a political light, it is not very

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desireable that the rejoicings of some, should be drowned amidst the groans of others, of their own countrymen. And in a commercial light, if the L. 20,000 or L. 30,000 we are speaking of, has been spent in the consumption of the produce of home-industry, the money has done little more than shifted hands; or, if it has been spent in the consumption of the produce of foreign industry, the money is lost, not only to him who has spent it, but also to the nation.

Thus, of the two gains to trade in opening a source of credit to men of entailed landed estates, the one is trifling in extent, and the other momentary in duration, and of doubtful benefit.

So far the balance hangs on the one side. But look at the other: the losses to trade, in laying the landed-men open to the indulgence of their follies, without any restriction from settlements at law, are important, lasting, and strike at the very principle on which she stands, to wit, the low price of commodity. I flatter myself, these losses have been clearly enough pointed out in Chapter Vth of these papers: the view of them is to be seen in the following irresistible concatenation.

tion.—Facilitate the transition of land-property, you accelerate dissipation; for most landed-men have nothing to do but to spend, and their ideas of superiority, make excess in expence even graceful in their eyes: accelerate dissipation, you raise the wages of labour, the height of profits, and consequently the price of commodity: raise the price of commodity, you stop exportation, and push on importation: do these, and ye, even the most wealthy nations, ye rush into poverty.

These reflexions do not strike against the advantages of credit in trading-men. There is this solid difference betwixt credit in the hands of a trading-man, and in those of a landed-man, that the former always makes use of it to become richer, the other almost never uses it, but to make himself poorer: in the exertions of the latter, the price of commodity is necessarily raised: the whole exertions of the former are to keep it low: for the sole occupation of a merchant, is to endeavour to sell cheaper than his neighbour, which he cannot do, if the price of his commodity is high.

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Wealth, in fixed property of whatever kind, inclines to unbridled dissipation: locking it up by entails, counteracts this natural inclination: entails are the only contrivance by which the wealth of individuals can be secured, and yet the stamp of commodity in foreign trade receive no bad impression from the effects of that wealth; they at once protect the old wealth, and yet do not bar the acquisition of new: foreign trade, which is the only trade that adds to the riches of a nation, made fortunes before to her votaries; and, if the laws do not encourage the defultory dissipation of them, she will make them again to those who court her embraces. The only danger is, that some of her present friends, like too fond a mother, may hurt her by over-caressing. The stores of trade, come from herself: Tyre, Athens, Corinth, Rhodes, Marseilles, Carthage, &c. in antient, and Venice, Genoa, Holland, Hamburgh, Dantzick, &c. in modern times, as I mentioned before, are eternal monuments that she rises, extends, subsists, and flourishes by her own resources, independent of the trifling help of the credit of landed-men. Wherever there is œconomy, industry, and well concerted

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certed, and well directed enterprize, she stands on her own foundation, and needs not such feeble and artificial props. Only one fifth of the landed-credit is stopt, in Scotland; one half of it, at least is stopt in England*: but does England cry out on account of this deficiency, that the hands of trade are tied up and disabled! No, she scorns it.

The reason why trade subsists upon her own credit, independent of the assistance of landed-credit, is obvious: When I lend to a landed-man, I lend upon the faith of his land, which being visible, I measure, by the value of it, the extent of the credit which I give. But the credit of a trading-man stands on a different basis: when he borrows, the object of the lender's security, is not so much the effects of the borrower, as the confidence which the lender has in his probity, and intelligence in trade: he knows the credit will not be used but for mercantile uses; and he supposes, that, from the use of that money, the person, to whom he gives the credit, may be enabled to pay him, and remain with

* There is likewise a great proportion of personal credit stopped in England, by means of trust-settlements of personal estates: a thing scarcely known in Scotland.

with profit besides to himself. But, as the funds of a merchant are invifible, his credit is fubject to no certain limitation: it is not uncommon to fee a beginner in trade with L. 1000 or lefs in his pocket, get credit in a few years for L. 20,000 or 30,000. Hence, as long as trade continues beneficial to traders, there is no danger of their wanting credit: as faft as fhe extends with prudence, credit will extend with her, let her ftrides be ever fo wide.

III. Thofe who argue againft entails fay, " That the time may come, when " too much of the property of the kingdom, being already locked up, the " permiffion to entail more of it, would " be no longer any advantage to the nation, and only a cruelty to private men " who might wifh to purchafe lands, but " could not be able to find them."

When that time comes, and not till then, the law fhould lend its aid, either to diminifh the extent of entails, then fubfifting, or at leaft to prevent entailing for the future. When it does come, we may very well fuppofe, that pofterity will take that care of itfelf then, which we are taking of ourfelves now. The fame legislative power which gave its fanktion to entails

tails at one period, may withdraw it from them at another.

But I do not imagine that period will arrive for many hundreds of years*. Altho' the whole land-rent of Scotland, which amounts to a million, and the whole land-rent of England which amounts to twenty millions, were entailed, it would be a great miftake to fuppofe that the value of all the land of England and of Scotland was entailed. The land-rent and the value of the land are very different things: the rents of England are only a third of the annual value or produce of the land of England, and the rents of Scotland are only a fourth of the annual value or produce of the lands of Scotland. The remaining two-thirds in the one part of the kingdom, and three-fourths in the other,

* People are furprized, that fo confiderable a proportion as a fifth of the land-property of Scotland fhould have been entailed in fo fhort a fpace as about 140 years. This deserves to be accounted for: There have been two fpecies of entails in Scotland; thofe before the reign of Charles I. and thofe fince. The firft contained prohibitory claufes; in the laft, claufes irritant and refolutive were invented. When it was obferved that the invention of thefe laft claufes gave a fecurity to entails, which the prohibitory claufes formerly in ufe did not give, many people threw their fettlements, by the former form, into the latter. So that many of the prefent entails are only renewals of more ancient ones.

The entailed lands of Scotland are poffeffed by about 300 proprietors.

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other, even of those lands that are entailed, are under no entail. They are not locked up, nor attached exclusively to the persons of individuals; on the contrary they pass to whatever person is willing to pay a certain yearly retribution for the enjoyment of them: and if the leases of them were converted into feus, or grants of alienation, with the reservation of just rents; they would be a free and unlimited property in whoever had them; just as much as the rent, that is the remaining third, or the remaining fourth of the yearly value or produce, is a property in him who draws that third or fourth. In this view, when we say, that one-fifth of the value of the land of Scotland is entailed, we should say, that one-fifth of the land-rent of Scotland is entailed; but that little more than one-twentieth of the real value of the land is limited in that manner: and if feus, with the common powers of property, were generally allowed upon entailed estates, this language would be intelligible even to infants. Copyholds and fee-farms in England, rentals and feus in Scotland, and the tenor by which one-half of the lands of France and Flanders is possessed, are instances of rents issuing out of

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of lands to one set of men, when the possession and property of them is in another, and where separate and independent estates belong to both. An entail, as I said in the first page of these papers, is only a security that a rent shall issue out of land for the support of a family. It is perfectly compatible with this, that the possession and even the property of the land itself may be in other people.

Now, if estates of this last kind, that is, by fee-farm, feu, or deed of alienation, with reservation of proper rents, were to become frequent in the kingdom, people would find land enough to purchase, though all the present land-rent of Britain was entailed: If money, trade and industry last, there is no impossibility that land may afford, of natural produce, in England, annually one-third, and, in Scotland, annually one-fourth more than it does at present; which, making allowances for the additional expence attending the additional production, would very near double the free land-rent of the kingdom. Upon the separation of estates, in the manner I have mentioned, new estates would, as agriculture, manufacture, and exportation went forward, grow upon the old ones;

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and all these new estates would afford field for new purchasers, altho' all the old land-rents had been locked up. Put the case that all the land-rent of England, as it stood in the time of Henry VII. had been entailed, and had continued so to this hour, and that the other profits of the land had passed into other hands, Would the value of the present land-rent of England have been entailed? Not the tenth part of it.

IV. It is said against entails, "That, " as the tendency of them is to accumulate fortune upon fortune, without end, " they exalt particular families too much: " that Britain never had liberty till great families were laid low; and that in " the rise of them liberty would again " fall."

This is not an objection to the permission of entailing, but only to the permission of entailing too much in one family; and therefore, if the objection was a good one, it might be obviated by an Agrarian law, disabling men to hold estates above a certain extent under entails.

But, I imagine, such restrictions are needless; when circumstances in causes are altered, causes do not produce the same effects as they once did. There is no danger,

ger, at this time, that the strength of families can endanger the interests either of the Crown, or of the people, as it did in the reigns of Henry VII. and many of his predecessors. In those times, land-property gave not only wealth, but a power that was dangerous: The Baron had the disposal of his vassals in marriage; he had the enjoyment of their estates during the minority of the heirs; he was judge within his own territories; he could command the attendance of his people in war; he was invested with many other powers and emoluments. But, at present, the first Duke in the land is as subject to the powers above him as the meanest peasant; and the only real dependants he has under him, are a few servants round his person: Over his tenants he has no power, but that which every creditor has over his debtor; and to the rest of mankind who support themselves by administering to his pleasures, and impoverishing him, he is an object of prey not of terror. The man who fears another at present in Britain, on account of his superior riches, is born a slave; and deserves to continue to be one.

It is true, the unequal distribution of land-property, may have influence upon political elections. In England a lease
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for life, gives a title to vote in the election of a member of parliament; and it is not difficult to see, that a landlord may have influence over those who hold such leases. In Scotland, none vote, but those who are supposed to have a considerable property, and who hold directly of the crown; so that the extension of property if entailed, does not indeed give more power to the landlord in elections, in this last country; but then, it diminishes the number of voters, already too small; and thereby makes undue influence more easy to whoever has the means of it. But there are few evils without a cure, if those who make laws mean to apply it. The cure lyes where an antidote to almost all the other evils complained of in entails, is to be found. If there were entails for indu-rance in England, the remedy would be, to permit men of entailed estates to give off in fee farm, or in alienation, with a reservation of the rent paid at the time of the grant. A similar remedy would remove the objection in Scotland. Grants made in the form of an alienation, with reservation of a rent-charge, would in Scotland intitle the granters to a vote in elections immediately, if the purchase was of sufficient extent: and tho' grants by
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feus to whatever extent, would not give such immediate title, yet as the Statute 20. G. II. cap. 50. allows the superiors of entailed superiorities, to sell the superiority to the vassal under it, * the feuar would have it always in his power, by a transaction with his superior, to hold directly of the crown. The consequences of these remedies applied, would be, that the dependence of a great class of voters would fly off in the one part of the kingdom; and the number of voters would not be diminished, but, on the contrary, increased in the other.

People ignorant of the laws and situation of things in Scotland, may be apt to imagine, that the practice of feuing, by extending vassalage, would re-establish the old feudal dependence: but a vassal holding feu or blanch of a subject in Scotland, is, now that ward-holdings and hereditary jurisdictions are abolished, as independent of that subject in every respect, as a vassal holding feu or blanch of the King, is
independent

* If proprietors of entailed lands, were allowed to feu, it would be necessary so far to alter or add to the clause in the Statute of the 20th of G. II. cap. 50. as to declare, that notwithstanding the sale of the superiority to the feuar, the feu-duty or rent should still remain with the original superior, and his heirs under the entail.

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independent of the King. The conversion of leases into feus, is the best way in Scotland to diffuse *civil liberty*, by making tenants independent of their land-lords; and it is also one of the best ways to diffuse *political liberty*, by paving the way to the extension of the number of voters in elections.

V. Those who reason against the effects of the inequality of fortune created by entails, draw arguments from authority: they object, "that the equal distribution of land among the citizens, was by all the politicians and philosophers of ancient Greece and Rome, considered as the first and most salutary of all political laws."

I acknowledge that equality of fortune, in the distribution of land, was necessary in an antient State; but I suspect, that an Agrarian law, even in entails, and even tho' exceeding high in its rate, could not be in the least useful to a modern one.

There are three capital differences betwixt antient and modern circumstances.

The lower, but the great classes, in every nation, are the husbandmen and the artizans: Now, all the works of these two vast classes of mankind, were performed by

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by slaves among the antients. The almost only employments, of the freemen, were to attend to the political interests of the State at home, and to fight her battles in war. When an individual therefore increased his land-property, he not only did no good to his fellow citizens, but he did them much hurt.—He did no good: he could give no new employment to the free by his new wealth, because the free worked none; he only increased the number of his slaves who administered to all his wants artificial and natural. * —He did much hurt: for in proportion as he increased the number of his slaves, who were of no use to the State, whatever they might be to him, he diminished the number of the citizens: if one man bought the portions of land of a hundred citizens, he perhaps added a thousand slaves to his estate, but he took a hundred citizens and soldiers from the Republic. In modern times, on the contrary, in most parts of Europe, all the lower classes of a nation are freemen. From the great body of industrious freemen, are taken the husbandman, the artizan,

* Croesus had 10,000 slaves, all employed in gratifying the pleasures of one man.

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tizan, the failor of the merchant, and the foldier of the State. A government must be as attentive to the interests of the lower classes of a nation in modern, as it was indifferent to them in antient times; because, if these fail, individuals must want bread, the society want arts, commerce want its chief engines, and the State want defence. Now, men of small fortunes maintain themselves, and employ very few others; but men of large fortunes maintain thousands: the former live by supplying their natural wants, which are few; the latter create artificial ones, which are many. Small fortunes were of consequence to an ancient State, because they increased the number of citizens, that is, of the idle; great fortunes are of consequence to a modern manufacturing State, because they increase the quantity of employment, that is, the numbers of the busy. But it is the wealth which gives the employment, not the numbers of hands which disperse it; for the wealth of the rich wherever lodged, is constantly falling in modern times into the pockets of the poor; and it signifies nothing to the last, whether twenty thousand pounds a-year fall amongst them from

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from one or from twenty hands. If indeed the man, worth twenty thousand pounds a-year is allowed, by the laws, to dissipate betwixt L. 400,000 and 500,000 in two or three years, the poor must be hurt; because they cannot supply his demands for their industry the few years that he presses for it, and they lose his employment all the years after. But if this defultoriness (if I may be allowed the expression) in demand, is guarded against by proper laws and politics, inequality of fortune can never be hurtful to the industrious: Twenty plentiful fortunes will create more idleness, and not only more waste in home-consumption, but also more importation of foreign commodities, than one great fortune equal to the twenty in one hand. A man of L. 20,000 a-year, will have perhaps fifty idle servants about him; but twenty men of L. 1000 a-year each, will have a hundred and fifty amongst them; and if the former gets more expensive articles of dress from France, buys more fine Italian pictures, and drinks more delicate and high priced wines, than the latter; they, on their part, will consume more of the linens of the Netherlands, France and Germany,

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bring more middling pictures from Holland, and drink more of the ports of Portugal: in short, the demand for the works of industry will be the same in both, though the objects of that demand will be different. Both will hurt the interest of the industrious, if the laws indulge them in a desultory expence; neither of them will hurt it, if they are limited to a regular one.

The second difference betwixt antient and modern times is, that in antient times, lands alone composed the wealth of private persons; and there was no such thing as a moneyed distinct from a landed interest. Hence, whoever had a great portion of land-property, had a superiority over the rest of his fellow citizens without any thing to balance it. But the equal distribution of land-property in modern times, and especially in Britain, could not insure equality among the citizens; because there is a great moneyed interest which must always create great inequality of fortune. The land-rent of England is supposed to be twenty millions. Join the interests paid to the public creditors, and to private creditors who have either mortgages upon land, or money

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lent out upon personal security, to the profits made by the merchant upon imports, upon exports, and in the course of interior commerce, computed at ten *per cent.*; and it will be found, that the revenues of the moneyed are greater than those of the landed-men in Britain. Or, attend to the situation of individuals; you will find that the moneyed-men are generally the most opulent citizens; and that people with large rent-rolls in their pockets are often in low circumstances, and at the mercy of those who have not an acre. I remember some years ago to have heard, that there were thirty Commoners in England, who could afford to spend L. 7000 a-year, and that of these there were eighteen who belonged to the city.

There is yet a third, and, in my opinion, an important difference, in the effects of equality of fortune betwixt antient and modern times. In antient times, the fine arts might flourish without great inequality of fortune; because a man might have his painters, sculptors, musicians, and other artists in his own family, that is, among his own slaves, without a ruinous expence to himself: But the expence of these

artists

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artists is so high in modern times, that nothing but great inequality of fortune in the citizens can support it. Unless there is a rank of men in a nation able to encourage the arts, without ruining themselves, the arts will flourish in no modern state. Look at the fates that have attended them in modern Europe, and the truth of this observation will be seen: the splendor of priests and princes in Italy, the wealth of individuals in the Netherlands, the generosity of Louis XIV. and his courtiers, and the magnificence of the English, have been the true causes of the efforts towards a renewal of the fine arts in different nations, and at different periods. But as these arts make a new creation upon earth, as they give a pleasure to human life that makes it anticipate the pleasures of a higher state, and as they reflect splendor on a nation, a nation can hardly pay too dear for them. Pericles, Augustus, Leo X. and Louis XIV. not only gained the admiration and respect of strangers to their countrymen, but drew their persons to spend their money among them: and the last of these rulers of nations, by giving the tone to the rest of Europe, commanded their fashions;

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fashions; and thereby created a thousand articles of manufacture for his subjects.

The quality and value of the same law is different according to the difference of circumstances: an Agrarian law, which might have been useful in the times of the Gracchi at Rome, would be not only useless but hurtful in the eighteenth century in England.

There are other objections made to entails more easily answered.

VI. It is said, "Entails injure creditors." But, for the same reason, dowers, curtesys, jointures, trust-settlements, annuities, and, in general, all estates for life should be prohibited by law; for, through all these, creditors may be injured.

Scarce any people have so little reason to complain of their entails in this respect as the Scots, seeing there is a necessity in Scotland of recording them in a public record, which any one may have inspection of for a shilling.

The vulgar errors about entails are innumerable: the sums lost to creditors in Scotland, by entails, for a century past, are quite trifling, in comparison of the immense sums lost to them, by trust given to men

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men whose estates have not been entailed. Ideas of honour oblige most heirs to entailed estates to pay their predecessor's debts. Besides, people measure the credit they give by the funds of their debtor; the credit given upon an entailed estate is limited, but upon an estate that is not entailed it is unguarded and unlimited. The long train of *postponed* creditors (as they are in Scotland very emphatically called) in every ranking before the Court of Session, affords a lamentable proof, how much more, creditors suffer from the unentailed, than from the entailed part of the land-property of their countrymen.

VII. It is said, "Entails breed disobedience in children to parents." But, for the same reason, all settlements in marriage-articles, which bind up the estate to the issue of the marriage, should be prohibited by law; and yet these are allowed by the laws of all cultivated nations in the universe. That people is past redemption in profligacy, where the general manners are such, that the sense of duty is unavailing to support the most pleasing of all dependencies, and where it can be held together no other way than by interest and terror. It is in vain to attempt
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to reclaim a people by artificial dependencies, if it be true, which it seldom is, that they are in general accustomed to break thro' the more sacred ties of natural ones.

VIII. It is said, "It is absurd that a man should have a power to entail a very small estate." If it is so, the law might prohibit entails of small estates, without hurting those of large ones: But indeed I see no harm to the State from such small entails. In the first place, they will not be numerous. In the next place, if the proprietors continue upon the estate, they will soon fall into the condition of happy farmers, instead of unhappy Gentlemen: And, in the last place, if they alienate or feu them off with reserved rents, the care of the land will fall into hands more able to cultivate it; and the original proprietor will find himself nothing the worse for the reserved rent, however small. It is an idle political expectation, that every individual shall have his fortune modelled just according to his wish.

IX. It is said, "It is very barbarous that younger children of men of entailed estates should be set into the world without fortunes." But also it is very barbarous, that the law of primogeniture should

should be the law almost all over Europe: the best general laws are attended with particular evils. If men of entailed estates were allowed, by law, to charge them with annuities for life to their younger children, to a certain extent, as proposed in the last chapter of these papers, the objection would fly off.

X. It is said, "That entails are unjust, "in respect many of them exclude female in competition with the male succession." The laws of many nations, however, exclude female succession altogether. But if the State has any interest in this objection, which I much doubt, it is easy to remove the grievance by law, without destroying entails in other respects. In this case, it would be necessary to preserve the interests of male heirs now existing. Mercy to one must not be shewn at the expence of cruelty to another.

C H A P. VIII.

Reflection with regard to England.

"ENGLAND has no entails for endurance; yet her laws are wise, and her state is great."

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In a man who has ideas of decorum and of respect for the general customs and ways of thinking of great and wise nations, this topic is delicate: I feel it to be such.

I have been told by some Gentlemen of the *other* part of the kingdom, that the surest way to get their countrymen to make havock of the laws of *this* part of it, on any branch of polity, is, to presume to suggest, that the laws of the southern contain not all the advantages of the laws of the northern part of the island on that branch of polity. The observation does not, I should think, involve in it all the decorum and respect which is due to the wisest and greatest of nations. I should rather be apt to suppose, that those who chiefly frame the laws of Britain, proceed on *manly* and liberal, not on *childish* and illiberal principles.—However, I am extremely sensible, that nothing can be more improper, than for one to propose innovations upon the laws of another country, at the very time when he is doing all he can to preserve from innovation the laws of his own.

Were it not for this, I would say, that, if entails for endurance were authorised

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by law in England, instead of the present English entails which are attended with some disadvantages, and of the present English trust-settlements which are attended with many more, the following consequences would perhaps follow: the lawyers, from habit and profession, would complain; some theorists and abstract men would join in the complaint; most of the old nobility and gentry, and many of the new, would rejoice in the thought, that it was put in their power to make the duration of their families as stable, as that of a constitution they so passionately love: the people would stand neuter, because the measure affects not them immediately; and if prejudice endeavoured to stir them up to opposition, they would not understand its language on matters of abstraction and distant consequence.—In time the price of lands would rise, and thereby the landed-men become richer.—The interest of money would sink; and thereby public credit be strengthened, and private trading-credit made easier; the latter of which would enrich the merchant, and the former prevent the State from becoming poorer.—Commerce, both inland and foreign, would extend when her own funds

funds were not withdrawn from her own hands to the purchase of land.—Home-consumption would diminish, importation decrease, exportation increase, and a provision be made to supply the most unbounded demands of our own Colonies.—A wealthy vigorous Nobility and Gentry would arise, firm in their condition, the defence of the nation, the pillars of all the three parts of the constitution: the gentlemanly ideas would spread themselves from rank to rank through the kingdom, and Britain would feel herself not only the wealthiest, but the most respectable of nations.

These separate consequences are conclusions, from separate principles, endeavoured to be established in the course of the foregoing papers. If the principles are sound, these consequences *must* follow: if the principles are not sound, I acknowledge these consequences are but imaginations; I mean with regard to England: for, with regard to Scotland, they do now, and for a long time probably will be, very solid realities.

There are two well-marked differences betwixt the circumstances of England and Scotland, which make entails proper in the

the latter, even though it was doubtful if they are proper in the former of these countries. The first is, that in Scotland there is more land to sell than there are purchasers to buy, which is not the case in England: The other is, that there is a great deal less trade in Scotland in proportion to England, and therefore there is a less proportion of credit required to assist trade than is required in England. When the circumstances of both countries shall come to be the same, reasoning from the state of the one to that of the other will be fair: but till then, it is not.

C H A P. IX.

Rectifications of Scotch Entails.

IN the beginning of the present considerations, a distinction was made betwixt entails, and the conditions contained in them: These papers shall therefore conclude with a suggestion of such rectifications in the conditions of the present and future entails of Scotland, as legislation may make, without injuring either individuals

viduals or the public, and as it ought to make for the sake of both.

1. A condition very common in Scotch entails is, That the tenant in tail shall not give a jointure to his wife out of the entailed estate: the consequence of which is, that no woman commonly provident will marry such tenant in tail: he must therefore either marry disadvantageously, which counteracts the very view of the maker of the entail; or he must not marry at all: and then the State suffers in the interests of population. In the same manner, heiresses are, by many entails, debarred from giving liferents to their husbands.

These conditions should be declared null by law, and all people of entailed estates should be empowered to provide their spouses in liferents to such proportions of their estates as legislation shall think proper, and likewise to make provisions for the wives of the apparent heirs of entail.

2. The tenant in tail is generally prohibited to let a lease for a longer term than a few years, in some cases not more than three: the consequence is, no farmer will make improvements upon such lease; because

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cause he cannot fail to see, that another will, in a few years, reap the benefit of them; hence the State suffers in the interests of agriculture. It is coarsely but justly said by the country-people, That a condition of this sort in an entail is a padlock upon the plough.

These conditions should be abolished and prohibited, and every tenant in tail should be authorised to grant leases for such term of endurance, or of lives, as the legislature shall think expedient. In this case leases, for great length of time, ought to be subject to the necessity of recording.

But then tenants in tail ought to be disabled to let, for a longer time than the life of the tenant in tail, the mansion-houses, and the grounds round them which have commonly been kept in the possession of the family.

3. The tenant in tail is 'disabled to make provisions for his younger children, not otherwise provided for. Hence these younger children are thrown a burden upon society.

If the legislature was to allow men of entailed estates, to charge them with fortunes to younger children; these, in time, would eat out entails; and therefore, the proper

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proper regulation would be, to enable such men to appoint certain portions of the rents, for life-annuities to their younger children; and these annuities might be made convertible, at ten years purchase, into capitals, at the desire, either of the heir, or of the younger children; if at the desire of the heir, it behoved him to pay down the money instantly; if at the desire of the younger child, it would be necessary that he should be enabled to obtain a sequestration of a part of the rents of the estate in order to recover his capital.

It would likewise be proper, that the tenant in tail, should have a power to make similar provisions for the younger children of the apparent heir of entail.

But one limitation is required: relief is only to be given where relief is needed. In cases where the tenant in tail leaves at his death a separate estate, sufficient to make a provision for each younger child, to the extent of a year's rent, of the entailed estate; or where, during his life, he has provided the younger child in a fortune equal to a year's rent of the entailed estate; it would be proper to debar him from laying any additional burden upon the

the heir of entail, on account of younger children.

4. The tenant in tail is prohibited to exchange grounds for grounds, of equal or superior value. Hence, the most advantageous situations for villages, for water-machines, for harbours, for plantations, and various seats of trade and manufacture, may be lost to Scotland; nay, some entailed lands run up to the very gates of our great towns.

It would be proper that tenants in tail should be enabled to exchange grounds for grounds, of equal or superior value; and, to prevent frauds, this ought to be done under the direction of the Court of Session.

5. The tenant in tail is prohibited to sell land, for the payment of that very debt which the maker of the entail has left upon him. Hence, he may be distressed for a debt, not contracted by himself; nor has the creditor any immediate way of making the debt effectual, but by seizing his yearly funds, from a speciality in the law of Scotland, that the creditor cannot force a sale of his debtor's land-estate, unless he proves the whole estate to be bankrupt.

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In this case, the creditor ought to have the benefit of an action before the Court of Session, to force a sale of such a part of the entailed estate as is equivalent to his debt.

6. The tenant in tail, in most entails, is prohibited to feu, tho' for the most beneficial feu-duty; or to alienate, tho' with the reservation of the most beneficial rent-charge. Both prohibitions counteract the original intention of the entail, which was the securing an adequate rent for the support of a family; and which rent will be much better secured by a prudent feu-duty, or reserved rent-charge, than in any other way.

This is the most important article of any: they are bad friends to their country, who hesitate a moment in asking from Parliament, a liberty for men of entailed estates, to grant feus at the then rent, at the time of the feu; and to alienate, with the reservation of a rent-charge equal to the then rent, at the time of the alienation. The interests of the present proprietors of entailed estates, of agriculture, and of both civil and political liberty, call equally for this relaxation in the conditions of entails.

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If the power of feuing and alienating, with the reservation of rent, was granted, the two limitations mentioned in page 77, and, for the reasons there given, would be necessary to be added: to wit, first, That each successor should be enabled to feu or alienate only a certain proportion, as a third, fourth or fifth of the estate in his turn: and 2dly, That the mansion-houses, with a certain portion of the entailed estates round them, such as a third or a fourth, should never be subject to be feued or alienated.

Further, the clause in the Statute 20. George II. chap. 50; whereby the subject-superior, where the superiority is entailed, is impowered to sell the superiority to the vassal under it, would require to be so far altered, that, in case of the alienation of the superiority to the vassal, the rent or feu-duty, should be declared to be still reserved to the original superior, as mentioned in page 39 *.

I have heard it objected, that as the proprietors of the entailed estates would get large sums, for converting their leases into

* There are precedents, for similar arrangements in the Statute-book of Scotland: by the act 14. Charles I. parliament 1. the superiorities of Kirk-lands erected, were taken from the titulars, and vested in the King; but the feu-duties were reserved to the titulars.

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into feus, such conversions would be defeats, to a certain extent, of the entail; and that the money obtained for the feu would oftener be thrown away in prodigality than laid out upon improvements. If this is so much to be dreaded, the provisions in the * ward-holding, and the † jurisdiction-acts, might be repeated. By these Statutes, the money got for entailed superiorities, and entailed jurisdictions, was directed to be laid out in purchases, in terms of the entail, or in clearing debts which affected the entailed estate. And, in order to expiscate and ascertain the sum paid for the feu, it might be enacted, that the feu-contract, should bear the true sum paid for the feu, and that any concealment should create a forfeiture of the feu and money to the feuar.

7. Tenants in tail, are not allowed to charge their estates, with debts equivalent to the improvements they have made upon them. This is a great check upon the enterprize and industry of men of entailed estates. But, was this indulgence granted, the common objection to entails, that

* Statute 20. George II. chap. 50.

† Statute 20. George II. chap. 43.

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that they stop the cultivation of the land by the landlords, would be removed.

The danger of this indulgence would be, that it might give room for frauds in ascertaining the value of the old rent and of the new improvements. But this is not without remedy: a man intending to make improvements might be empowered to bring a proof of his rent before the Court of Session, as he is allowed to do in valuing his tythes; and when he had made his improvements, he might be empowered to bring a second proof of the additional rent before the same court, which might thereupon intitle him to charge the estate, to the value of that improved rent. In both cases, it would be proper, that the heirs of entail should be called in the action.

It is thought by some, that the benefit of charging with debt, in proportion to the improvement of the rental by money laid out, should be extended to tenants in tail now living, and who themselves have made improvements. The public has no interest on either side of this arrangement: the tenant in tail has an interest for it; the heirs of entail have an interest against it: and yet, I am confident, there

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are very few of these last, who would repine at so equitable and good-natured a favour, shewn by the public to many of the present tenants in tail, in return for a spirit of enterprize, in which the public is always a gainer*.

8. The last correction which is loudly called for in the law of entails, is with regard to the effect given to the irritant and resolute clauses. By these clauses, which enable the next heir to take the estate from the proprietor, upon his running in debt and the attachment of the creditor, a father and a son conniving together, may cheat the creditors; or what is worse, the son may cheat both them and his father.

This, as an outrage equally upon the laws of nature, and of justice, should be wiped from the law-books of a country.

If these corrections were made upon the conditions of entails, they might perhaps supersede the imaginary necessity of letting them die out.

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* I have heard it proposed, that the proprietor of an entailed estate should be intitled, under authority of the Court of Session, to charge it with the expences of law-suits laid out in defending it, on this principle, that, if the person is intitled to charge the estate who improves it, much more is he intitled to do so who preserves it.

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The suggestion of letting the entails of Scotland die out, is said, whether truly or not I know not, to have proceeded from one, who, sitting high in the law of the southern part of the kingdom, is equally master of the laws of the other part of it, which gave birth to himself, and who joins all the powers of imagination and of eloquence to quick accurate penetration, and to solid judgment. Could any human authority have made me give up my own reason, it would have been his: but this is a compliment which he would neither have asked, nor would I have granted.—Could the arguments which have convinced me, convince him, that the scheme of letting the Scotch entails die out, is improper, I should be vain indeed!

F I N I S.

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ERRATA.

- Page 22. line 10. for *her commere*, read *her commerce*.
 page 20. in the note, for *Sir Joseph Child*, read *Sir Josiah Child*.
 page 28. line 12. for *produce of it*, read *produce of them*.
 page 50. line 8. for *present*, read *prevent*.
 page 79. line 3. for *countries* read *counties*.

OMITTED, at the bottom of page 19.

There is yet another reason, why the dissolution of entails would have a tendency to raise the interest of money. There are two classes of borrowers; those who borrow with an intention to turn the money to account, and those who borrow to spend it. The former are the merchants, the latter are the spendthrifts; and the chief of this last class are the Gentlemen or the landed-men, who, from their habits of pleasure, and ideas of superiority, are, in all nations, prone to expence. When these two classes of men appear (if I may be pardoned the figure) at the money-market, the merchants can give no more for money than what the profits of their trade can bear; but the Gentlemen or landed-men who want it to supply their pleasures,

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pleasures, take it at whatever price they can get it: and therefore these last, by their high offers, disturb the proportion between the rate of interest and profits upon trade. But the effect of entails is, to drive from the money-market those who are most apt to raise it: when that is done, the interest of money falls to its own natural level. Whereas, if entails are dissolved, those who quit the money-market, with reluctance, will again crowd into it; and that instant the interest of money rises above its natural level.