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THE  
PROPOSED REFORM  
OF THE  
COUNTIES OF SCOTLAND

IMPARTIALLY EXAMINED:

&c.

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THE  
PROPOSED REFORM  
OF THE  
COUNTIES OF SCOTLAND  
IMPARTIALLY EXAMINED:  
WITH  
OBSERVATIONS  
ON THE  
*CONDUCT OF THE DELEGATES.*

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By ROBERT FERGUSON JUNIOR  
OF CRAIGDARROCH.

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THE SECOND EDITION;  
WITH CONSIDERABLE ADDITIONS.

EDINBURGH:

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M,DCC,XCII.

THE only fault that can be ascribed to that which our ancestors established is, that it has not proved to be perpetual; which is no more than may be justly said of the best human constitutions that ever have been in the world. If we will be just to our ancestors, it will become us in our time rather to pursue what we know they intended, and by new constitutions to repair the breaches made upon the old, than to accuse them of the defects that will for ever attend the actions of men. Taking our affairs at the worst, we shall soon find, that if we have the same spirit they had, we may easily restore our nation to its ancient liberty, dignity, and happiness, and if we do not, the fault is owing to ourselves, and not to any want of virtue and wisdom in them.

ALGERNOON SIDNEY'S  
*Discourses concerning Government.*

TO THE  
COMMISSIONERS OF SUPPLY  
FOR THE  
COUNTY OF DUMFRIES.

GENTLEMEN,

TO whom can I with equal propriety dedicate the following sheets, as to you whose conduct has uniformly afforded a striking example of that independence of spirit, which forms (as I think, and as I endeavour to shew) the characteristic of the body of Commissioners of Supply in Scotland? If I could flatter myself, in any degree,

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gree, with the idea of contributing to establish you in those rights, to which I think you so justly entitled, it would be a reward much more than sufficient, to repay me for any pains I may have bestowed upon the subject.

I have the honour to be,

Gentlemen,

Your most obedient, and

Faithful humble servant,

ROBERT FERGUSSON.

EDINBURGH,  
Nov. 22. 1792.

## INTRODUCTION.

**B**EFORE I enter upon the particular subject I have to treat, I shall attempt, in as few words as possible, to give a sketch of the history of the representative system of Scotland; and to trace its progress from a state of the most perfect freedom to the situation in which we now see it.

By the ancient constitution of the Scottish parliament, all freeholders, or tenants *in capite*, (formerly the only real proprietors of the land) were bound to give personal attendance in the King's parliament. We are not, however, to believe, that this part of our constitution was ever adhered to in

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its full extent. Indeed, the acts which I have to cite will be a sufficient proof, that the freeholders were often remiss in their attention to their duty, or, as we should now call it, the *exercise of their rights*.

By an act passed in the year 1425, during the reign of James I. it was ordained, that "every freeholder should be bound to appear *in person*, and not *by proxy*, unless a sufficient cause should be given for his absence." This being found burthenfome and expensive to the smaller barons and freeholders, it was enacted in the year 1427, (only two years afterwards) "That small barons and freeholders need not come to parliament, but are to send from each sheriffdom two representatives, called commissioners, or commissioners of shires." By

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act James II. 1457, it was more clearly specified who were the persons to whom this indulgence was extended. All freeholders, under 20l. Scots of yearly rent, were therein exempted from *personal attendance*.

In the year 1503, by a statute of James IV. a new regulation on this head was adopted. It is there enacted, "That freeholders under 100 merks of *the extent*\* *that now is*, shall

\* *Old and new extent* are the names given to the valuation made, at different times, of the whole lands of Scotland. The first general valuation is supposed to have been taken towards the end of the 13th century, in the time of Alexander III. From that period till the middle of the 15th, several new valuations seem to have been made; and we accordingly, at different periods, meet with different valuations called *new extent*.

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" shall not be compelled to attend in person,  
 " but shall send representatives."

Thus

" The act of James III. 1457," (says Mr Wight\*)  
 " which ordered that all *retours* should specify both the  
 " *old extent*, and the precise value the lands were worth  
 " at the time of the inquest's serving the heir to his  
 " predecessor, has ever since given to this last valuation  
 " the name of *new extent*." It is, therefore, the ex-  
 tent alluded to in the act 1503.

If it be true, as we are told, that, whenever the *new extent* had not been retoured, it was usual to fix it at quadruple the *old extent*, as being higher rated in that proportion, it will necessarily follow that a freehold of 100 merks of *new extent* was equal to one of 25 merks, or 16l. 13s. 4d. Scots, of *old extent*. It will also follow, that freeholds of this description, until the year 1587, entitled the proprietors to a seat in parliament; from which no act has yet *expressly* excluded them; nor

has

\* Wight on the Election Laws of Scotland.

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Thus the election laws of Scotland stood (so far as regarded the representation of the counties) till the time of James VI. Every freeholder was admitted to give his vote for his *representative*, however small the value of his freehold; and every one possessing more than 100 merks of *new extent* had a right, and

has the one which established them in that right ever been repealed. It is also a curious fact, that such a freehold will be found to be little more than double of that which is *now* required as a qualification to vote at an election; supposing a 40s. land (which is an eighth part of the former) to be little more than a fourth of the amount of a valuation of 400l. Scots. Thus, the *actual property*, which, at the end of the 16th century at least, entitled the holder to a *seat* in parliament, at the end of the 18th, affords only *two votes* for a representative. This calculation, it will be observed, is independent of the difference in the value of money, the rent of land, &c.

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and was even bound by law, to appear *personally* in parliament.

A great revolution took place in our system of representation in the year 1587. The statute of James VI. bears, " That no freeholder, unless such as possessed a forty shilling land, (old extent) should have a right to vote. That all freeholders possessing that extent, and under the degree of earls, prelates, and lords of parliament, should be present at the choosing of commissioners." By this last clause, all freeholders, under the degree mentioned, are supposed to have been *virtually* excluded from the parliament; but there are certainly in the act itself no *express words* to that purpose. Be that as it may, the statute in question made a wide breach in the ancient

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free constitution of this country. It deprived, of their most valuable rights, the whole body of freeholders under 40 s. of old extent; and thus narrowed considerably the basis of our representation.

But, if this act was unjust, those which followed were no less so. By the 21st Charles II. 1681, it was enacted, that a 40s. land should continue to be a sufficient qualification to vote; but, if the *old extent appeared not*, the right of voting should then be constituted by a property, or superiority, and possession of lands, holden of the crown, rated at 400l. Scots of valuation\*. The qualification was by

\* This alludes to the general valuation made during the Commonwealth. After the Restoration, the land-tax was, for some years, levied according to the old



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by this means raised to three or four times the extent of the former one. By this act, likewise, wadsetters and liferenters were allowed to vote; from which have sprung most of the abuses which now exist.

Next comes the act 16th George. II. It is there ordered, that no evidence whatever shall be admitted as a proof of the old extent, but a \* retour prior to the year 1681. "This statute" (as Mr Wight † well observes) "by cutting off every kind of evidence of the old extent but retours prior to 1681, did deprive many who were truly possessors of a 40s. land, of the right of being admitted to the roll, notwithstanding their having a title equally good with those who could prove their extent by such retours, and notwithstanding that the evidence arising from their charters was equally satisfactory \*."

\* A retour is the act containing the verdict of a jury or inquest, by which the successor is declared, or (as the law of Scotland terms it) served heir to the deceased. It also mentions the valuation of the lands.

† Treatise on the Election Laws of Scotland.

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Since these acts, no alteration has been made in the *basis* of our representation. All those who possess the property and superiority,

\* There were few who could produce the evidence required. The retour had never been recorded till the year 1633; and, prior to that time, the greater part of the ancient retours must, by various accidents, have been lost or destroyed.

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rity, or the superiority alone in property, wadset or liferent of lands valued at 400l. Scots, and those few who can produce rec-  
 tours prior to the year 1681 of forty shilling  
 lands, are entitled to vote at elections. The  
 evils arising from the nature, however ab-  
 surd, of the qualifications themselves, would  
 have been comparatively small, if the power  
 of voting could, by any means, have been  
 restricted to those who had *really* an interest  
 in the lands. But this object it has never  
 been in the power of the legislature to ac-  
 complish. Votes out of number have been  
 created, for the mere purpose of political  
 jobbing. These votes are generally made  
 by wadset or liferent qualifications. A life-  
 rent voter is created by a transfer of the life-  
 rent of a *bare* superiority, producing some  
 trifling feu-duty. At the death of the voter,

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the right reverts to the granter. He then  
 transfers it to some other person, and thus  
 keeps up a continual succession of dependent  
 voters, whereof he can create as many as he  
 has forty shilling lands or valuations of 400l.  
 Scots upon his estate. A wadset voter is a  
 person, who has paid to the proprietor of a  
 superiority a certain sum (however small),  
 for the interest of which he receives the year-  
 ly feu-duties. Nay he may have given no  
 price or consideration whatever; and still  
 his vote is held good in law. A term is fix-  
 ed, after which it shall be lawful for the  
 granter to resume his right, on paying up  
 the sum fixed by the transaction. This is  
 called the redemption term. When it ex-  
 pires, the wadsetter holds his vote at the sole  
 pleasure of the granter, who can, in one  
 moment, annihilate it by paying up the sti-  
 pulated

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culated sum. This is the situation of almost all the wadset votes in Scotland.

Such are the men who return the members for our counties; whilst proprietors of several thousands a-year may perhaps not possess a single vote upon their estate. *This is the representation of the landed interest of Scotland!*

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## PROPOSED REFORM, &c.

A Plan for Reforming the representation of the counties of Scotland, has for some time occupied the attention of the public. It is a Question of considerable moment, whether we view it as affecting the rights of the landed proprietors; or, as involving in its decision the general interests of the people of this country. Has not every man liberties to protect, and to whom is it not a matter of concern, that those who are chosen to defend them should be men who will, upon every occasion, speak the genuine opinions of the people? It is time we should be represented by men whom neither self-interest, nor fear, will turn aside from a faithful discharge of their duty;  
men

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men who, strangers to faction, will prove themselves at once the Friends of the People, and the Friends of the Constitution. In Scotland particularly it is essential to have patriotic representatives. At a distance from the seat of government, and differing in our laws and customs from the rest of Great Britain, we have separate rights to support, and separate interests to watch over. But these rights and interests have been, at times, too lightly considered; nor ought we to be surprised at it, when we reflect, that the representatives of Scotland are, in truth, the representatives, not of the people, but of the aristocracy\*.

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\* It is a fact perhaps little known, but which I can assert from having examined the rolls of the different counties, that, at last general election, about 700 individuals returned a majority of the representatives of the landed interest of Scotland. Of these 700, perhaps, one fourth were not real proprietors, and one half, most probably, held their votes from Peers and other great men.

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To destroy the unconstitutional influence of the Peers in the election of the Commons; to restrain within proper bounds the power of the great proprietors; and to place our representation in the hands of the respectable and independent land-holders, are the professed objects of the county reform.

In a matter so truly interesting to the general welfare of the country, let us hope, that party considerations will for once be left out of sight. Popular questions have too long been made the engines of party; and the weapons of the people have hitherto been wielded only for the interest of individuals. Let not then the nation be deceived by the insinuations of those who consider the present minister as the author of those evils of which they complain. The unprejudiced mind, which takes a liberal and comprehensive view of things, will look elsewhere for the source of our disorders; and for their remedy will look to other means than a change of ministers.

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It is a change of *system* we require, not of *men*. As long as the means of corruption are within his reach, where is the minister who will not make them subservient to his views?

A reform of the representation of the people is, perhaps, the most effectual means of counteracting this corrupt influence, which, it will be impossible, I fear, in our government, totally to eradicate. Men who are named by the people; who are responsible to them; who enjoy their confidence, but who know they will enjoy it only as long as their conduct is upright, are certainly in that situation in which there is the least danger of corruption.

At the Revolution, the evils of an unequal representation were less felt, because the influence of the crown was limited. But, when we examine the course of events since that period, we trace the gradual progress of the corruption of our government. "The power  
" of

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" of the crown, almost dead and rotten as  
" prerogative has grown up anew, with  
" much more strength, and far less odium,  
" under the name of *influence*. An influ-  
" ence, which operated without noise and  
" without violence; an influence which con-  
" verted the very antagonist into the instru-  
" ment of power; which contained in it-  
" self a perpetual principle of growth and  
" renovation; and which the distresses and  
" the prosperity of the country equally tend-  
" ed to augment, was an admirable substi-  
" tute for a prerogative, that, being only  
" the offspring of antiquated prejudices, had  
" moulded in its original stamina irresistible  
" principles of decay and dissolution \*."

When we consider what additional force this influence must have drawn (even of late years) from the enormous increase of our debt and our taxes, and of the places and employments in the disposal of the Crown,  
C (to

\* Burke's Thoughts on the Cause of the present Discontents.

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Is it surprizing that, in practice, our constitution should have lost that poise (to use the language of its enthusiastic admirers) which its theory points out, as essential to its preservation?

In an extensive country, where the voices of the people can only be collected through representatives, and where, from the progress of corruption, it might even be dangerous to extend indiscriminately to all the privilege of voting for these representatives, the selection of men, to whom this power is to be entrusted, becomes the foundation on which we are to depend for the security of every right we enjoy. In considering this subject, it is a principle not to be overlooked, that the power of representation, wherever it may be placed, is, like all other delegated powers in government, a trust vested for the good of the community; not for the private interest and advantage of those individuals, in whom the right of voting may have been exclusively vested.

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ed. Far less can those individuals pretend to any thing like a property in their votes. It is the duty of the legislature, as the interest of the people may require it, to extend their privilege to others, or, by transferring the deposit, to annul it altogether.

Having laid down these general principles, I proceed to examine the actual state of the county representation of Scotland, (the only subject to which I mean at present to apply them) and to show how far the remedies proposed will prove effectual for removing the evils complained of.

When we consider the oaths which have been prescribed; the innumerable acts and regulations that have been framed for the improvement of our election laws; and when we observe, that the same disgraceful transactions still prevail at this day in our county elections, we are led to imagine, that there must exist, in the system itself, some radical defect. Perhaps to one circumstance alone, the

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the right of voting being attached to superiority and not to property, we may ascribe the origin of all those vices which disgrace our representation. It has given rise to the splitting of estates for the purpose of making votes; and we all know that, by this means, the representation of the Commons of Scotland has been fixed in the hands of the aristocracy. The question now is never asked, Whom do the freeholders mean to return, but, Whom does this or that great man intend to bring in for the county at next election? When this is the case, things are not as they should be. There are times in which the aristocracy should not attempt to stretch their power beyond the limits of their order; satisfied if they are left (and I hope they will be left) that share in the government which the constitution allots to them. One of the greatest causes of discontent at this moment (and in my opinion one of the justest) is the interference of peers in elections; but, I see little reason to hope, that either public virtue will induce, or a sense

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sense of future danger, force them to withdraw this influence. Nor do I expect that our peers will support the Reform of the County Representation of Scotland. It is certainly the death-warrant of *their* power; but *we* have the consolation to think, that it sets up in its place the natural and independent interest of the country. This is the object of the reform; and it will be difficult for the aristocracy of Scotland to make head against the general voice of the people, expressed upon a point of this importance, and a measure of such evident utility.

The projected reform is confined to two general heads, 1st, The reduction of the qualification to 100 l. Scots; and 2dly, The right of voting to be vested in the proprietor, not in the superior, of lands. I doubt much whether any reform short of this will better our condition; nor do I think that, by any other means, we can effectually guard against the undue influence of the peers and of the great proprietors.

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The oath, prescribed by the 7th of Geo. II. it was expected, should have been some check to the enormities committed in the county elections of Scotland. What has been the effect of this oath? Would it stagger the conscience of a great man's voter at an election? Hear his reasoning: I am desir- ed to swear, that, " the lands and estate, " for which I claim a right to vote, is ac- " tually in my possession, and do really " and truly belong to me, and is my own " proper estate; and is not conveyed to " me in trust, or for, or in behalf of, a- " ny other person whatsoever." This I can safely swear, because the superiority, given me in life-rent, is in my posses- sion, really belongs to me during my life, and is, so far as the life-rent goes, (a title acknowledged by law to be suffi- cient) my own proper estate. Now, as to its being conveyed to me in trust, &c. I ask what is a trust? A trust is a something committed to charge, of which an account must be given; the conveyance of a thing

revokable

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revokable upon abuse. Is my vote of this nature? Can I be forced to give an ac- count of the use I have made of it? Can it be revoked upon abuse? No; for I can swear, that " neither I, nor any person, to my " knowledge, in my name, or on my ac- " count, or by my allowance, hath given, or " intends to give, any promise, obligation, " bond, backbond, or other security what- " soever, *other than appears from the tenor " and contents of the title*, upon which I " now claim a right to vote, for re-dispon- " ing and re-conveying the said lands and " estate, in any manner of way whatsoe- " ver;" and as the tenant is bound to pay to me, and to no other person, *one penny Scots*, arising yearly from the superiority, I can also swear, " nor for making the " rents or profits thereof forthcoming to " the use or benefit of the person from " whom I have acquired the said estate, " or any other person whatsoever." I have then to make oath, " That my title to the said " lands and estate is not nominal and fictiti- " ous,



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“ous, created, and reserved in me, for the purpose of voting for a member to serve in parliament.” I reason thus: Hundreds purchase bare superiorities for the mere purpose of voting; and, if this clause does not comprehend them, it cannot comprehend me. My title is not nominal or fictitious, but real, for the life-rent is fully vested in my person, and the life-rent of a superiority by the law of Scotland constitutes as undoubted a right to vote as the property itself. I conclude by declaring, “That the same is a true and real estate in me, for my own use and benefit, and for the use of no other person whatsoever; and that is the truth, as I shall answer to God.” Thus the purpose of an oath (in its nature as comprehensive as can be imagined) is defeated by the ingenuity of men, who, if by a subterfuge, they can explain away the words of an oath, think they will escape the charge of perjury; although, if the spirit be looked to more than the letter, they must be sensible that they are guilty of that crime.

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crime. That there are men, in this country, who reason thus, and who hold these principles, will appear too evident, when we look to the rolls of the freeholders in Scotland.

Is there any remedy for such abuses? I know but one; a total transfer of the right of voting from superiority to property. In that case, few, to serve a political job, would be foolish enough to make over the absolute property of their lands, when they had no recourse at law for recovery of them.\* But, as long as the present facility of creating votes continues, the evil must remain in force. We have found that oaths are to no purpose. We may be assured, then, that there will always be found men who will make such votes, as well as men who will be ready to receive them.

I have endeavoured to explain in the Introduction the nature of wadset and liferent qualifications. If this reform takes place, should wadsetters upon property be allowed

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to vote? I think not : For although the abuse would certainly be less frequent, if vassals were confined to property, yet there would still be a door open to elusory transactions. Life-renters, under the same idea, should be entitled to vote upon estates only which fall to them by course of law, such as a husband in virtue of the property of his wife, the proprietor of an entailed estate, &c. This would be necessary to prevent fictitious votes being made by fraudulent conveyances upon property, as they now are upon superiority.

I have thus far argued for abolishing superiorities as the only means of preventing undue influence in elections. I now come to view it in another light, as a matter of justice, to a large and respectable body of landed proprietors. In former ages, it happened in this country, as in every other where the feudal law had taken root, that vassals held their lands at the will of their superior lords. Their lords appeared in the King's Parliament, and by them they were

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were supposed to be represented. By degrees, the vassals acquired a more permanent interest in their lands, and at last came to hold them as secure, and as independent, as their superiors themselves held their's of the Crown. But I need not dwell upon a subject so generally known. No person will dispute that those called vassals of a subject in this country are now the absolute, uncontrollable proprietors of the land; and, if property be considered, in our government, as the basis of representation, upon what principle of reason or of justice can the rights of this body of men be withheld from them?

An important point to be considered in this reform, is the reduction of the qualification. It is proposed to lower it to the valuation, which now entitles heritors to be commissioners of supply\*. Nothing would, in

\* The commissioners of supply, as every one knows, (in Scotland at least) are those appointed to levy the land-

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in my opinion, contribute so much to the purity of our representation. The commissioners of supply are placed in that rank, which forms, in every country, the most virtuous, and the most independent part of the community. They are equally removed from the extremes of poverty and riches, and equally free from the vices and corruptions of either. They are the men who are the least liable to be acted upon by influence of any kind. Their fortunes are independent, in the situation of life in which they are placed. They are above the reach of a pecuniary bribe; their habits of life protect them from the influence of offices and employments. They will neither turn out the dependents of a court, nor the stipendiaries of a minister. To whom else, then, can we look for the genuine and unbiassed opinions of the sound part of the community in this country?

It is land-tax within their respective counties. Their qualification is 100 l. Scots, which may, in general, be from 50 l. to 80 l. Sterling yearly rent.

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It is the peculiar advantage of this plan of reform, that it opens no door to those speculative systems of a perfectly equal representation; systems which I have always thought impracticable, in the present state of society among us; and which, could they be carried into execution, I am convinced, are totally unfit for the situation of this country. But, in this plan of reform, there is a broad line drawn, a well marked limit, which it might be dangerous to pass, but to which the most moderate cannot, I think, scruple to advance.

In reducing the qualification to 100 l. Scots, we shall nearly bring back our representation to the original basis, on which it stood previous to the act of 1681, passed under the arbitrary reign of Charles II. This act, which requires a valuation of 400 l. Scots, where the old extent appears not, was a manifest encroachment upon our constitution. Although it might be difficult to arrive at any very accurate idea of the average amount

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mount of the 40s. land of old extent, in pounds Scots of the present valuation, yet I could hazard an assertion, that the qualification for voting at elections was in general near quadrupled by this act. The 40s. lands of old extent will, I believe, never be found to exceed 150l. and generally not 100l. Scots, of the present valuation. What objection can there be, then, to a reduction of the qualification to that rate at which it formerly stood in the constitution of the Scottish Parliament?

Another question remains to be examined. If this reform be carried into execution, What compensation ought to be allowed to the superior, on surrendering to the proprietor his right as immediate vassal of the Crown? It must evidently be calculated upon the *real* interest which the superior, at this moment, has in the lands. What is this interest? He receives certain feu-duties; and he has certain claims upon the lands, which, as they occur only upon certain events, are called

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called casualties of superiority. It has been proposed to allow him, as an equivalent for these rights, thirty years purchase of the feu-duties, and one years rent of the land. Whatever be the sum to which he is entitled, in this view of the matter, he can found no claim to an additional compensation, upon the ground that he may have paid for a *qualification to vote*, a price superior to what he will receive by this transaction. If the corrupt state of our representation, and the political jobs of individuals, have, of late, so far raised the price of superiorities, as to attach something like an idea of value to the *mere vote*, that can never enter into the consideration of the legislature. They never can regard such imaginary value as a property, nor, as such, think that any equivalent should be given for it.

The superior, it is proposed, shall be forced to sell to the vassal. Another question occurs, Shall the vassal be bound to purchase? I think not. In some cases, the public

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blic good may require, that an individual should be forced to part with his property, on receiving a proper indemnification ; but I doubt much whether the same reasoning would be held good to force another to *buy* that property. All that can be said is, Give an equivalent for this object, or you shall not enjoy the advantages accruing from it. If, then, there are vassals who refuse to buy, the superior must continue to vote\*. I see no immediate remedy for this.

But,

\* It has since occurred to me, that this might be liable to some weighty objections. A great proprietor might prevail upon his vassals *not* to purchase, or the vassals themselves might be indifferent about it, and content themselves with remaining as they now are. What would be the consequence ? The proprietor would continue to make superiority votes, and would thus, in a certain degree, render the reform nugatory. As long, therefore, as the vassal refuses to buy, let the superior continue to enjoy the duties and casualties arising from the superiority. But let the *vote, which he cannot claim as a property, lie dormant* till it be revived in the person of the vassal who chooses to purchase. I believe there is little chance of that being the case for any length of time.

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But, in order that the end of this reform may by degrees be accomplished, I would leave to every new vassal, on entering the lands, the option betwixt continuing to hold his land of a subject, and becoming an immediate vassal of the Crown, on paying the fixed rate of compensation.

But I shall be told, perhaps, that, allowing all my reasoning to be just, and admitting that this reform might be productive of all the advantages I have pointed out, still there is one argument which will fully answer every thing that I have said, or that can be said upon the subject ; *It is dangerous to innovate, in these critical times.* This weighty argument, though less fashionable than it has been, is not yet quite out of vogue. It would be a pity if it fell into disgrace, for it has the very rare advantage of suiting every occasion, and of being adapted to reasoners of every calibre. Do the gentlemen who use this argument mean, that, as long as the world continues

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to speculate upon new ideas, and new systems of civil government, we are to stand still, and forbid ourselves the privilege of repairing those breaches in our constitution, which the lapse of time, and the change of situation and circumstances, may have occasioned? In this case, indeed, we may adjourn the question of reform to a distant day; to that day in which means shall be found to arrest the progress of the human mind, and to keep it stationary, till such time as the Parliament of Great Britain shall have examined into, and provided remedies for the disorders of our constitution. For my own part, I had always heard, that the great and the invaluable quality of the British constitution was, that it contained in it a certain renovating principle, a constant tendency to amend and to improve, which could alone preserve it from decay.

—“ The greatest innovation on the spirit  
“ of our constitution,” says Mr Fox,  
“ would be a resolution not to innovate  
“ at all.”

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But this argument of the danger of innovation is not peculiar to the present moment. It is to be found in every debate which has taken place, from the beginning of this century, upon those plans of reform which were either to add to our liberties, or to preserve those we already possessed. It has uniformly been found, that the times (however different in every respect from each other) were ill suited to reforms. In our own day, when Mr Pitt brought forward his plan, for reforming the representation, in the year 1782, *it was dangerous even to deliberate on such a subject amid the din of arms.* In 1783, 1784, and 1785, we were to be sure at peace; *but novel and dangerous opinions had been spread tending to discontent and sedition.*

The enemies of reform can never be at a loss for arguments. If we are at war, it will give our enemies an advantage: If we are at peace, the public tranquillity must not be disturbed. If we are flourishing, it will endanger our credit: If we are distressed, it will but aggravate our condition. It will  
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serve only to shake that government which is already too feeble. These different modes of reasoning may each be used, as they are best suited to the season.

It has of late, upon every occasion, been attempted to throw an odium on the friends of reform, by affecting to confound them with those who favour the French Revolution. If the insinuation were true, (which it is not) that all who wish for reform are friends of the Revolution of France, it would not seem to me to follow that they are on that account bad citizens of the country in which they live. Much has been said of the opinions which have been adopted in France; and many epithets have been applied to those who in this country have stood forward to defend them. Not only all those who have written in favour of the French revolution, but likewise those who have in any way whatever expressed their approbation of that event; all have been involved in one indiscriminating accusation, as disaffected and  
turbulent

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turbulent characters, as fowers of sedition, and avowed enemies of the constitution of Great Britain. In these accusations I have seen much declamation, and little argument; and I confess I am still to be convinced, that an approbation of *what was lately* the constitution of France, is inconsistent with a sincere love and veneration for our own. What the French constitution *may be*, after the total abolition of Kingly government, is a question of a very different nature; a question upon which it would be rash at this moment to decide. At any rate, the giving or with-holding our approbation to the establishment of a government *purely republican* in France, must be governed by principles totally distinct from those upon which we may have grounded our opinions respecting the revolution previous to the 10th of August 1792. But even the man who did approve of what has lately passed in France; who approved of the establishment of a republic as necessary in the situation in which the French  
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nation stood at the 10th of August; even such a man it would be unfair to charge with disaffection to the government of Great Britain. Men may give their sanction to those violent remedies, to which, in extreme cases, a nation may be driven for their own preservation; but it would be absurd to infer from thence, that such remedies are held forth by them as objects of imitation to a country living under a free and well regulated government. In the discussions upon the subject of the French revolution, a most intolerant spirit has prevailed, both on the one side and the other. It must be allowed, at the same time, that this spirit has been stronger and more general on the part of the enemies of that revolution. Many, I have no doubt, on the one side, are actuated by factious, and many by interested motives, on the other; but I am convinced, there are also many on either side of the question who support their opinions from a sincere conviction of their truth,

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truth, and abstracted from every idea of selfish or seditious views; that on either side there are good and bad subjects, friends and enemies to the constitution of their country. My ideas on this point I find eloquently expressed by Dr Parr, in his Letter to the Dissenters of Birmingham. "Through  
 " circumstances that are the result of accident  
 " more than of design; through the prejudice  
 " of our education; through the habits of our  
 " thinking; through the conversation of  
 " our acquaintance; and sometimes, it may  
 " be, through the authority of our teachers;  
 " difference of opinion will arise. But that  
 " difference, when carefully examined, of-  
 " ten resolves itself into a question of *more*  
 " *or less*; of fit or unfit, as to the time;  
 " of proper or improper, as to the mode;  
 " of probable or improbable, as to the con-  
 " sequence. It *really* turns not upon the  
 " actual existence, or upon the general va-  
 " lidity of principles themselves, but upon  
 " the degree in which they are applicable  
 " to some specific or controverted case.  
 " As,



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" As, however, the solution of these diffi-  
 " culties must ever be dependent, not only  
 " upon the fluctuating nature of all worldly  
 " affairs, but upon the many or the few  
 " opportunities we have for observing their  
 " varying aspects, or upon the greater or  
 " less ability we employ to comprehend  
 " their relations and effects; there must  
 " often be room for suspense of judgment,  
 " and there will always be a call for the  
 " exercise of charity. On the other hand,  
 " impatience of contradiction is both weak  
 " and wicked. Instead of facilitating deci-  
 " sion, it perpetuates contention; it dark-  
 " ens the evidence, and obstructs the effi-  
 " cacy of truth itself; it originates in a ra-  
 " dical defect of judgment; and it too of-  
 " ten terminates in a most incorrigible into-  
 " lerance of temper."

Those who are alarmed at the idea of the  
 people reasoning upon their liberties, pre-  
 tend to see much danger at this moment in  
 Scotland. Much is apprehended from those  
 societies,

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societies, which have every where been esta-  
 blished, for the avowed purpose of procur-  
 ing a redress of grievances by constitutional  
 means. Such societies I do not myself ap-  
 prove of; because I do not think them the  
 means best fitted to procure what is desired.  
 They have the appearance of wishing to  
 wrest from government *by force* that which,  
 I am convinced, they will *of themselves* be  
 induced to grant. Such societies can only,  
 I think, be useful, when a government per-  
 sists in a fullen and obstinate refusal to the  
 just demands of the people; a thing which, I  
 trust, *we* never shall have to complain of.  
 In these societies the principles of govern-  
 ment will no doubt be discussed. In this  
 point of view, I apprehend no danger from  
 them. I do not think any bad consequences can  
 arise from the most general discussion of e-  
 very system, and every principle of civil go-  
 vernment. On the contrary, the more gene-  
 ral the discussion, the more security it will  
 afford to a well constituted system, like that  
 under

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under which we live. *Dans une nation libre il est tres souvent indifferent que les particuliers raisonnent bien ou mal ; il suffit qu'ils raisonnent : delà sort la liberté qui garantit des effets de ces mêmes raisonnemens* \*.

I have now to say a word or two to the Gentlemen who compose the Convention appointed by the different Counties of Scotland, to devise the means of remedying the abuses of our representation. When the subject was brought forward at the General County Meetings, last spring, the object of the proposed Convention was stated to be for obtaining a reform of the representation, upon the principles I have laid down, viz. abolishing superiority votes, and reducing the qualification to 100l. Scots. Under this conviction, the Delegates were chosen. They assembled, in consequence, at Edinburgh, on the 2d July,

\* Montesquieu, Esprit des Loix.

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July, and entered into certain resolutions. These resolutions are before the public ; and I believe I am not singular in my opinion when I assert, that they fell far short of the expectations which their constituents had formed. So far from any opinion being given upon the specific points of the reform, every expression which could convey the most distant idea of the intention of the Meeting to pursue that object, or even to take the matter into consideration, seems to have been most cautiously avoided. Indeed, the resolutions are couched in such vague terms, and, as it seems to me, in such a studied obscurity of expression, that I am at a loss to discover any one object to which they point, unless it may be some trifling regulation of our election laws.

We cannot suppose it was the intention of the leading men in that Meeting to gain time by unmeaning resolutions, and at last to set the business asleep, by applying

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ing some partial remedy to a most deep-rooted abuse. The characters of the gentlemen who composed the Meeting, are a sufficient security against the suspicion of their having had any wish to deceive their constituents and the public, in the expectations which had been held out to them by the greater number of those very gentlemen themselves. Let us rather suppose, that they were averse from entering upon the business, till they should be convinced that the general voice of the country called for the reform. I believe there can now be little doubt what are the sentiments of the country in this respect. There can remain, therefore, no longer any obstacle of that kind.

I have heard, that it was the wish of some of the delegates to confine this reform to the principles of the bill brought into Parliament in 1775, by the Chief Baron, when he held the office of Lord Advocate of Scotland.

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Scotland. This bill \*, for the time in which it was drawn, was perhaps as much as could be done in the business; and it certainly does equal honour to the author of it, as a man of business, and as a friend to his country. But his Lordship himself (whose character no man respects more than I do) must be sensible, that the reform cannot *now* be confined within the same limits. Circumstances and situations have materially changed since the year 1775; and, as the abuses complained of have since that period taken a deeper root, they will require a more powerful remedy.

Others, I have been told, propose to reduce the qualification to 200l. Scots, and *no lower*. Those who hold this opinion have certainly not considered all the circumstances of the case. They may view it perhaps as a plan likely to reconcile all parties; but it would, in my opinion, prove one of those

\* The Chief Baron's bill went to the abolition of wadsets, and different qualifications.

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those half-measures which displease all. This plan cannot surely go upon the idea, that the commissioners of supply are not men, both in situation and principle, independent enough to be entrusted with the power of voting at an election. The great object, in reducing the qualification to 100l. Scots, is to embrace a large, respectable, and well-known description of men, who form, as it were, a separate *order* in this country. Reducing the qualification to 200l. Scots, would only serve to irritate every individual of this class. Whether this would be a matter of indifference at the present moment, I leave to the authors of this plan themselves to determine. Those who know the influence which this body of men possess with the lower ranks of people in this country, will not think it a matter of little moment to bind them by every tie to the constitution.

The Committee appointed by the Meeting of July, "to examine into the present  
"existing defects in the general system of  
"country

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"county elections," are ordered to make their report to the Meeting, which assembles on the 10th of next month. What may be the result of their investigation I know not. I presume it will be, "That  
"this reform is indispensable." If the contrary be the case; if the Committee report, and the Meeting agree with them in thinking, that all that is required is some *new regulations* in our election laws; this may *retard*, but it cannot *stop*, the progress of the general reform. The sense of the country is already expressed upon it; and, under a Government like ours, the sense of the country, expressed upon a matter of justice and of sound policy, must at last prevail. But I cannot think we shall have to look elsewhere, than to the Convention of Delegates, for bringing forward this reform; and I doubt not that they will resolve on presenting to parliament a bill to its full extent. A question would then arise, whether this bill should be laid before Parliament this Session, or delayed till the  
sense

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sense of the counties is taken upon it, at their general meetings next spring. In this last case, it could only reach Parliament the Session after next. I do not see why it should be delayed a moment. No man can doubt but that the general sense of the counties is at this moment compleatly in favour of the reform. By referring the bill to the different counties, it is either meant to take the opinion of the commissioners of supply alone, at their general meeting; or of the commissioners of supply, jointly with the freeholders, at a meeting called for that purpose; or, lastly, of the commissioners of supply and freeholders separately, at their respective meetings. In the first supposition, does any man doubt of the sentiments of the commissioners of supply on this subject? or, in the second, does any one suppose that the bill would be negatived at their *joint* meeting with the freeholders? or, thirdly, supposing it were negatived at the *separate* meeting of the freeholders (a circumstance which might happen)

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happen) is the bill on that account to be given up? These are the questions I put to those who are for sending the reform bill to the counties.

But, if the bill must be referred to the counties, let general meetings be *immediately* called for the express purpose of taking the matter into consideration. In that case, it can be laid before parliament this session. Those who wish to delay the consideration of the bill till the general meetings in spring, and thereby lose the whole of the ensuing session of parliament, are, in my opinion, the most artful and dangerous enemies of the reform. If the bill come before parliament this session, there is good reason, I think, to hope for success. For my own part, I do not despair to see it seconded by the minister himself. Government must be sensible how important it is, at this moment, by every means in their power, to unite the people of Scotland.

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In these times, it is to be feared that men, who come forward with just and moderate demands, may, if repulsed, run to extremes which every good citizen would deplore. "The danger" (says Mr Stewart\*) "of sudden and rash innovations cannot be too strongly inculcated; and the views of those men who are forward to promote them cannot be reprobated with too great severity. But it is possible also to fall into the opposite extreme, and to bring upon society the very evils we are anxious to prevent, by an obstinate opposition to those gradual and necessary reformatations which the genius of the times demands. The violent revolutions which, at different periods, have convulsed modern Europe, have arisen, not from a spirit of innovation in sovereigns and statesmen; but from their bigotted attachment to antiquated forms, and to principles borrowed from less enlightened ages. It is

" this

\* Elements of the Philosophy of the Human Mind, chap. 4. sect. 8.

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" this reverence for abuses which have been sanctioned by time, accompanied with an inattention to the progress of public opinion, which has, in most instances, blinded the rulers of mankind, till government has lost all its efficacy; and till the rage of innovation has become too general and too violent to be satisfied with those changes, which, if proposed at an earlier period, would have united, in the support of established institutions, every friend to order and to the prosperity of his country.—The perfection of political wisdom" (says he, in another place,) "does not consist in an indiscriminate zeal against reforms, but in a gradual and prudent accommodation of established institutions to the varying opinions, manners, and circumstances, of mankind." It would be difficult to point out, in clearer or more forcible terms, the duty of government at the present time.

Whatever may be the fate of the English reform, it is a matter totally separate and

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and distinct from ours. However much many of us might approve of a general reform in England, I am sensible it might, upon principle, be *opposed* by some who *support* the one in question. The first is a compleat new modelling of the whole system of representation, and even of the constitution of parliament itself: The last is only a moderate extension of the privilege of voting, for the representatives of the landed interest of Scotland, to a respectable and independent body of proprietors. This reform, it is not less the policy of government to grant, than the interest of Scotland to demand. Government cannot now make themselves too strong in the only strength which is truly permanent, *the Opinion of the People.*

F I N I S,