SUPPLY WITHOUT BURDEN;

OR

ESCHEAT *vice* TAXATION:

BEING

A PROPOSAL FOR A SAVING OF TAXES BY AN EXTENSION OF THE LAW OF ESCHEAT, INCLUDING STRICTURES ON THE TAXES ON COLLATERAL SUCCESSION COMPRISED IN THE BUDGET OF 7TH DECEMBER 1795.

(PRINTED IN 1793, AND FIRST PUBLISHED 1795.)

PREFACE.

Of the two essays laid before the public, that which presents a new resource was submitted to the proper authority in the month of September 1794, but was not fortunate enough to be deemed worth further notice. The arguments which it contains will speak for themselves; none were controverted, nor any hinted at on the other side; only as a matter of fact, it was observed, that it had not been customary of late for the *crown* to avail itself of the branch of prerogative here proposed to be cultivated for the *public* use.

Nobody can suppose that the minister would not gladly have availed himself of this, as of any other, source of supply, had it promised, in his conception, to conciliate the voice of the public in its favour. Nobody can suppose, that if the apprehensions that occurred in prospect should ever be dispelled by the event, the sense of the public would find him backward in conforming to it. It is natural that the difficulties attending a measure of considerable novelty and magnitude, should strike with a force proportioned to the responsibility of the situation to which the measure is presented. It is natural that they should strike with less than their proper force, on the imagination of him in whose conception it received its birth.

The idea had been honoured with the approbation of several gentlemen of eminence at the bar, some of them in Parliament, as many as had had the paper in their hands. If they were right in their wishes in its favour, it by no means follows, but those to whom it was submitted in their official capacities, did otherwise than right in declining to make use of it. Of all the qualifications required at the board to which it was presented, one of the most indispensable is *the science of the times*; a science, which though its title to the name of *science* were to be disputed, would not the less be acknowledged to be in the situation in question, "*fairly worth the seven.*" For that master-science none can have higher pretensions than the illustrious chief of that department, none less than the author of these pages.

Neither his expectations, nor so much as his wishes, in relation to this proposal, had extended so far as to its immediate adoption. It now lies with the public, who in due time will grant or refuse it their passport to the Treasury, and to parliament, according to its deserts.

The "*protest against law-taxes*" had better fortune: it received from the candour of the minister, on whose plans it hazarded a comment, all the attention that candour could bestow; and if I do not misrecollect, the taxes complained against did not afterwards appear.

The publication of it in this country was kept back, till the proposal for a substitute to the tax complained of should be brought into shape. Upon the principle of the parliamentary notion, which forbids the producing an objection to a tax without a proposal for a better on the back of it. The two essays seemed no unsuitable accompaniments to each other. Mutual light promised to be reflected by the contrast between the best of all possible resources and the worst.

SECTION I.

GENERAL IDEA.

In a former essay* I pointed out the species of tax which, if the reasoning there given be just, is the *worst* of all taxes existing or pos-

* Protest against Law-taxes, printed 1793, now first published and subjoined to the present Essay, December 1795. [See the immediately preceding Tract.]

sible. The object of the present essay is, to point out that mode of supply which, for one of so great a magnitude will, I flatter myself, appear to be absolutely the *best*.

What is that mode of supply, of which the twentieth part is a tax, and that a heavy one, while the whole would be no tax, and would not be felt by anybody?

The question has the air of a riddle; but the proposition it involves, paradoxical as it may appear, is not more strikingly paradoxical than strictly true.

The answer is, an extension of the existing *law of Escheat* — a law coeval with the very first elements of the constitution; to which I would add, as an aid to its operation, a correspondent *limitation*, not an *extension* of the power of *bequest*.

Of the extended law of escheat, according to the degree of extension here proposed, the effect would be, the appropriating to the use of the public all vacant successions, property of every denomination included, on the failure of near relations, will or no will, subject only to the power of bequest, as hereinafter limited.

By near relations, I mean, for the purpose of the present proposal, such relations as stand within the *degrees* termed *prohibited* with reference to marriage.

As a farther aid to the operation of the law, I would propose, in the instance of such relations *within the pale** as are not only childless, but *without prospect of children*,†—whatever share they would take under the existing law, that instead of taking that share in *ready money*, they should take only the interest of it, in the shape of *an annuity for life*.

It would be a farther help to the operation of the measure, and (if confined to the cases where, from the nature of the relationship, the survivor is not likely to have grounded his plans of life upon the expectation of the succession, or otherwise to have placed any determinate dependence on it) may scarcely, if at all, be felt, if in such instances, although the relationship be *within* the pale, the public were to come in for a share in the succession (suppose an *equal* share,) though not the whole. This may be applied to the case of the uncle and aunt — to the case of the grandfather and grandmother — and perhaps, unless under particular circumstances, to the case of the nephew and niece.

With regard to *family settlements*, the persons whose benefit they have in view will be found provided for, with few or perhaps no exceptions, by the reservations made in this plan in favour of relations *within the pale*.

To make provision for the cases where, in virtue of an old settlement, an estate might devolve to a relation without the *pale*, I would propose to add a proviso, that wherever the deceased, had he been of full age, could by his single act have cut off the entail, it shall be as if he had actually done so for the purpose of excluding the distant relative.

This, in the instance of settlements already *existing*; as to future ones, there will be still less difficulty about confining *their* operation within the range meant to be allowed them by the spirit of the proposed law.

Regard to the principles of the constitution, not less than to the probability of carrying the measure through the Upper House, would, at the sametime, incline me to exempt the peerage from its operation, wherever the effect would be to deprive the title of any property which, under the existing law, would go to the support of it.

As to the latitude to be left to the power of *bequest*, I should propose it to be continued in respect of the *half* of whatever property would be at present subject to that power: the wills of persons in whose succession no interest is hereby given to the public, to be observed in all points as at present; as likewise those in whose succession an interest *is* given to the public, saving as to the amount of that interest — the plan consequently not trenching in any degree upon the rights of parents.‡

* To save circumlocution, relations, whom under this, or any other definition of *near* relations, I should propose to exclude, I shall term relations *without the pale:* those whom I should propose *not* to exclude, relations *within* the pale.

† Say, in the instance of females, 48; — in the instance of males, 60, if no child within 5 years past; or 55, if married to a wife above 48.

‡ Many writers (Blackstone for one) have treated the right of bequest with very little ceremony: many writers, without having in view any such public benefit as is here in question, have been for abolishing it altogether [the author of the Code Frederic for instance; Cocceiji, chancellor to the late king of Prussia. See the preface to that work.] Without entering into a discussion which is not to the present purpose, it will be sufficient here to observe, that not only the regard due to old-established privileges, and long-existing usages, but the success of the very system here proposed, though established in so great a degree at the expense of the power in question, may depend upon the leaving that power in possession of a very considerable degree of force. If a man were allowed no power at all over what property he left behind him, he would, in many instances, either be indifferent about getting it, or spend it as fast as he got it, or transfer it to some happier clime, where the interests of the community were better understood, and the feelings of individuals treated with more respect; and, in fact, a great part of the value of all property would be thus destroyed.

So much as to the abolishing the power altogether: as to the narrowing it in the manner here proposed, should that be objected to as too great a hardship, let it be considered, that the defalcation thereby proposed to be made from the powers of proprietors in general, falls short by much more than half the quantum of restriction imposed by the terms of marriage settlements on the description of proprietors whose lot in point of property is most envied — the great body of the nobility and landed gentry. In this plan there is nothing to preclude a man from *charging* his estate — from *changing the nature* of it as often as he pleases — from improving any part by selling or charging another — or from *giving* or *spending* it in his lifetime.

To give the plan its due effect, it will be seen to be indispensably necessary, in the first place, that the whole property in which the public shall thus have acquired an interest, shall, whatever it consists of, be converted into *ready-money:* property in the funds alone excepted, from which the public cannot reap so great a benefit in any other way than by the sinking of so much of its debt in the first instance; in the next place, that to prevent collusive undervaluation, and the suspicion of it, the conversion shall in every instance be performed in the way of *public auction*. As to the reasons for such conversion, they are tolerably apparent on the face of the proposition; and they will be detailed in their proper place.

What will also be seen to be necessary is, that wherever the public has any interest at all in any succession under the proposed law, the officer of the public, *i.e.* the officer of the crown, shall enter into the possession and management of the whole in the first instance, in the same manner as assignees of bankrupts do in respect of the whole property, *real* and *personal* together, or administrators or executors do in respect of the personalty: not to mention the *real* in some cases, as where, by a clause in the will, it is ordered to be sold.

Of the several extensions above proposed, it may be observed, that though they operate, all of them, to the augmentation of the produce, and in so far at least to the *utility* of the measure, yet are they not any of them, so indispensably *necessary* to its adoption, but that they may be struck out or modified, or even added to by further extensions, and the principle of the plan still adopted—the essence of it still preserved.

It may be a satisfaction to see at this early stage of the inquiry the principles by which the *extent* that may with propriety be given to this resource appears to be marked out and limited. The propositions I would propose in that view are as follows: —

I. Whatever power an individual is, according to the received notions of *propriety*, understood to possess in this behalf, with respect to the disposal of his fortune in the way of *bequest*, — in other words, whatever degree of power he may exercise without being thought to have dealt *hardly* by those on whom what he disposes of would otherwise have devolved, — that same degree of power the law may, for the benefit of the public, exercise once for all, without being conceived to have dealt *hardly* by anybody, — without being conceived to have *hurt* anybody, — and, consequently, without scruple: and even though the money so raised would *not* otherwise have been to be raised in the way of taxes.*

II. Any further power which could be exercised in this way to the profit of the public purse, and of which the exercise, though not altogether clear of the imputation of producing a sense of hardship, would, at the same time, be productive of *less* hardship than the lightest tax that could be substituted in the room of it, ought, if the public mind can be sufficiently reconciled to it, to be exercised in preference to the establishment of any tax.

III. A power thus exercised in favour of the public purse, would go beyond the latitude given by the first rule, and would accordingly be productive of a sense of hardship, in as far as it went the length of producing, in any degree, any of the following effects, viz.

1. If it extended to the prejudice of the joint-possession customarily enjoyed by a man's *natural* and necessary dependents, such as children, and those who stand in the place of children.

2. If it went to the bereaving a man of the faculty of continuing, after his death, any support he had been in the habit of affording to *relatives* of any other description, whose claims to, and dependence on such support,

* If without provocation on the part of my *children*, I were to let in strangers, or mere collateral relations, for an equal share of my fortune, my children would feel themselves injured, other people would look upon them as injured, my behaviour to them would be universally regarded as cruel or unnatural. A man is considered, indeed, as having his own fortune pretty much in his power, as against one child in comparison with another, but very little so as against his children taken together, in comparison with collaterals or strangers.

How stands it with regard to nephews and nieces? Is he considered as lying under the same restraint with regard to them? No, nor anything like it. If it be his pleasure to give them all, so he may, they being his nearest relations, and without being thought to do amiss by anybody else: but should it, on the other hand, be his pleasure to prefer to them a set of individual friends, or a public institution, say with respect to half, yet so as he does but leave them the other half, they will scarcely be looked upon as ill-used. Had he indeed exercised no such power at all over his property — had he suffered the law in this behalf to take its own course, they would, it is true, have got the whole. But *why?* only because somebody must have it, and as they stand nearest, there is nobody else to take it. I say nothing here of brothers and sisters, fathers and mothers, uncles and aunts, grandfathers and grandmothers, they would lead me too far into details.

are, by reason of the nearness of the relationship, too strongly rooted in nature and opinion, to be capable of being dissolved by the dispensations of law.

3. If, by putting it out of the power of a relation of parental age, to receive, at the death of a relation of inferior age, an adequate indemnification for requisite assistance, given in the way of *nurture*, it threatened, by lessening the inducements, to lessen the prevalence of so useful a branch of natural benevolence.

4. If it went to the bereaving a man of the faculty of affording an adequate *reward for meritorious service*, of whatsoever nature, and by whomsoever rendered, lessening thereby the general disposition among men to the rendering of such service.

5. The effect of such an extension of the proposed power would be purely mischievous, if what were gained thereby on one hand, by the augmentation of the share taken into the hands of government, at the expense of the power of bequest, were to be lost, on the other hand, by a proportionable diminution effected in the whole mass of property in the country, in consequence of the diminution of the inducements to accumulate and lay up property, instead of spending it.

6. The public mind must, in this instance, as in every other, be, at any rate, treated with due deference. In this instance, as in every other, a law, however good in itself, — however good, on the supposition of acquiescence, — may become bad, in any degree, by unpopularity: by running too suddenly and directly against opinions and affections that have got possession of mankind.

Thus much for the rules that may serve for our guidance in adjusting the extent that may be given to this resource. They may be trusted, it should seem, for the present, at least, to the strength of their own self-evidence. The application of them to practice, the application of them to the several modes and degrees of relationship, and to the several situations and exigencies of families, is matter of detail that will meet us in its proper place.

SECTION II.

ORDER OF THE DETAILS.

IN continuing the thread of this proposal, the following is the course I propose to take: —

1. To give a brief view of the *advantages* or beneficial properties that appear to recommend the measure to the adoption of government.

2. To show how *distinct* it is, in reality, from all taxes on *collateral successions*, which have ever been established or proposed, and how much the distinction is to its advantage.

3. To exhibit the best idea I am capable of giving of the probable amount of the *produce* that may be expected from it.

4. I shall add a few observations relative to the most eligible *application* to be made of that produce.

Descending further into detail,*

5. I shall give a more particular view of such *regulations* as may seem proper to be inserted for the purpose of applying to practice the principles already exhibited.

6. I shall attempt a sketch of an *official establishment* for the *collection* of the produce.

7. I shall consider the measure with reference to the cases where the interest of individuals belonging to nations altogether *foreign*, or nations *co-ordinate* with or *subordinate* to the British, are concerned.

8. I shall consider it with reference to the cases where the *property* in question happens to be *situated* anywhere *without* the limits of the laws of Great Britain.

9. I shall attempt a general sketch of a *plan* for the *collection* of the produce: in the course of which attempt, I shall have occasion to advert to the differences that may be suggested by the *nature* of the *property* which may come to be collected: to the means of guarding against *concealments* and other *frauds* to which the property in its several shapes may be exposed, on the part of such individuals, whose interest or affections may be at variance, in this behalf, with the interest of the public; as also against any such *abuses of power* and other *mismanagements*, as the servants employed on behalf of the public in this business, stand exposed, by their respective situations, to the temptation of being chargeable with.

In a sort of Appendix, which those who may find themselves already satisfied with the principle of the mode of supply, may spare themselves the trouble of looking into,

10. I shall defend the proposed institution against every *objection* which my imagination can represent to me as capable of presenting itself.†

11. I shall show that a latitude, much beyond what is here proposed to be assumed, stands warranted by the *opinions* of the most respected writers.

12. That it is equally warranted by *precedent*, that is, by the disposition of law in this country from the primitive ages of the constitution down to the present times.

13. Lastly, in the way of supplement to the refutation of the several imaginable objections to the proposed measure, I shall endeavour to give a comprehensive idea of the several *effects*, as well immediate as remote, that appear any way likely to result from it, considered in every imaginable point of view.

* The matter belonging to the ensuing heads is not all of it included in the present publication. No part of it was sent, the demand for it depending upon the approval or disapproval of the principle of the measure; nor has it ever been thought worth while to work up into form any more than is here subjoined. — *Note added in December* 1795.

† Heads of objections, with answers, were sent, in form of a table, and being now printed *verbatim*, form the matter of one of the ensuing sections. — *Note added December* 1795.

SECTION III.

ADVANTAGES.

THE advantageous properties of the proposed resource may be stated under the following heads, viz. —

1. Its unburthensomeness.

2. Its tendency to cut off a great source of litigation.

3. Its favourableness to marriage.

4. Its probable popularity on that score.

Its *unburthensomeness*, which is the great and transcendent advantage, is not matter of surmise: it is testified by experience: it is confirmed, as we shall see, by the most indisputable principles of human nature — by the fundamental constitution of the human feelings.

1. It is testified by *experience*. On the decease of my uncle, who had children before I was born, the law gives everything to his children, nothing to me. What do I suffer from finding myself thus debarred? Just nothing — no more than at the thoughts of not succeeding to the stranger whose hearse is passing by.

What more should I suffer, if my uncle's property, instead of going to his children, were known beforehand to go to the public? In point of personal feeling, at least, nothing: sympathy for my cousins, in the case of their being left destitute, is a different concern.

Living under the law of England, I find myself debarred from a succession, in which I should have shared had I lived under the law of Spain. What do I suffer at hearing this? Just nothing: no more than I suffer at the thoughts of not being king of Spain. But if the law of England were to be changed in this behalf, in conformity to the measure proposed, what is now the existing law would be to me no more than the law of Spain.

My father gets an office: upon his decease, the office goes to the nominee of the king, from whom he got it, not to me. Do I regard the successor as an intruder? — do I feel his taking possession of the office as a hardship upon me? No more than I do his Majesty's having succeeded to the crown instead of me.

Under the *existing* law of escheat, real property, on the absolute failure of all heirs, lapses to the crown already. Is there anything of hardship felt by *any* body? If there were, it would be a cruel hardship, for it would be felt by *every* body.* Give to this branch of law the extent proposed, confining it always within the bounds above traced out, and it will be even then as unburthensome as it is now.

Thus stands the resource in point of unburthensomeness, as demonstrated by experience. What does so singular a property turn upon? Upon a most simple and indisputable principle in human nature — the feeling of *expectation*. In the case of acquiring or not acquiring — of retaining or not retaining — no hardship without previous expectation. *Disappointment* is expectation thwarted: in the distribution of property, no sense of hardship but in proportion to disappointment. But expectation, as far as the law can be kept present to men's minds, follows with undeviating obsequiousness the finger of the law. Why should I suffer (bodily distress from want out of the question) — why should I suffer, if the property I call *mine*, and have been used to regard as *mine*, were to be taken from me? For this reason, and no other: because I *expected* it to continue with me. If the law had predetermined that the property I am now using as mine, should, at the arrival of the present period, cease to be mine, and this determination of the law had been known to me before I began to treat it as mine, I should no longer have *expected* to be permitted to treat it as mine: the ceasing to possess it, the ceasing to treat it as mine, would be no *disappointment*, no hardship, no loss to me. Why is it that I do not suffer at the reflection that my neighbour enjoys his own property, and not I? Because I never *expected* to call it mine. In a word, in matters of property in general, and succession in particular, thus then stands the case: *hardship* depends upon *disappointment; disappointment* upon *expectation; expectation* upon the dispensations, meaning the *known* dispensations of the law.

The riddle begins to solve itself: a part taken, and a sense of burthen left; the whole taken, and no such effect produced: the effect of a part greater than the effect of a whole: the old Greek paradox verified, a part greater than the whole.† Suffer a mass of property in which a man has an interest to *get into his hands*, his expectation, his imagination, his at-

* I leave out of the supposition the case where there is a father left, a grandfather, or a relation of the half blood, and the estate escheats to their prejudice. These are but too real hardships; but they belong to the law in its present state, were ingrafted into it by accident, and would not continue in it in its proposed extended state if the choice depended upon me. Thus much must be acknowledged: the removal of them is a separate question, bearing no necessary relation to the present measure. [The law of England in this respect was altered by 3 and 4 W. IV. c. 106. — *Ed.*]

† —— πλεον ημισυ παντος.

tention at least, fastens upon the whole. Take from him afterwards a part; let it be such a part and no other, as at the time of his beginning to know that the whole was to come into his hands, he knew that he would have to quit: still, when the time comes for giving it up, the parting with it cannot but excite something of the sensation of a loss — a sensation which will of course be more or less pungent according to the tenacity of the individual. *Ah! why was not this mine too? Ah! why must I part with it? Is there no possible means of keeping it? Well, I will keep it as long as I can, however; and, perhaps, the chapter of accidents may serve me.* Take from him now (I should not say *take*,) but *keep* from him the whole; so keeping it from him that there shall never have been a time when he expected to receive it. All hardship, all suffering, is out of the case: if he *were* a sufferer, he would be a sufferer indeed; he would be a sufferer for every atom of property in the world possessed by anybody else; he would be as miserable as the world is wide.*

Under a tax on successions, a man is led, in the first place, to look upon the whole in a general view as his own: he is then called upon to give up a part. His share amounts to so much — this share he is to *have*; only out of it he is to *pay* so much *per cent.* His imagination thus begins with embracing the *whole*; his expectation fastens upon the whole: then comes the law putting in for its *part*, and forcing him to quit his hold. This he cannot do without pain: if he could, no tax at all, not even a tax on property, would be a burthen; neither land-tax nor poor's-rate could be too high.†

The utility of that part of the proposal which gives to the public officer possession of the whole, whether the public, in conclusion, is admitted to the whole, or only to a part, may now be seen in full force. It is a provision not more of *prudence* with a view to the public, than of *tenderness* with a view to the individual. Had he been suffered to *lay his hands* upon the *whole*, being afterwards or even at the time called upon to *give* up a *part*, his attention would unavoidably have grasped the whole: the giving up the part would have produced a sensation, fainter perhaps, but similar to that produced by an unexpected *loss*: on the other hand, as according to the proposal he *takes* nothing that he does not *keep*, no such unpleasant sensation is produced.

The case where the individual sees a share go from him for the benefit of the public, in the way of *partition*, stands in this respect between the case where the public is let into the whole, and that where a part is taken from him in the way of a *tax*. Whether, on this plan of partition, the individual shall feel in any degree the sensation of a loss, will depend partly upon the mode of *carving out* the share — partly upon the *proportion* taken by the law — partly after all upon the temper and disposition of the individual. As to the *mode of carving*, the whole secret lies in taking the public officer and not the individual for the *carver*, for the reasons that have been seen. As to the *proportion*, — to come back to the paradox, the larger the share of the public the better, even with reference to his feelings; for the larger it is, the more plainly it will show as a *civil* regulation in matters of succession: the smaller, the more palpably it will have the air of a *fiscal* imposition — the more it will feel, in short, like a *tax*. The more is taken under the name of a tax, the more burthensome the measure, as everybody knows: at the same time, the more is taken for the public under the name of *partition*, so long as an equal or not much more than equal share is left to the individual, the farther the measure from being burthensome, because the farther from being considered as a tax. The Roman tax of *five per cent.* on collateral successions was considered as a heavy burthen; a tax of *fifty per cent.* imposed under the name of a tax, would have been intolerable: at the same time, pass, instead of the tax, a law of inheritance, giving the public *fifty per cent.* upon certain successions, the burthen may be next to nothing: pass a law of inheritance, giving the public the whole, the burthen vanishes altogether. The dominion of the imagination upon the feelings is unbounded: the influence of names upon the imagination is well known. Things are submitted to without observation under one name, that would drive men mad under another. Justice is denied to the great bulk of the people by law-taxes, and the blind multitude suffer without a murmur. Were the distribution of justice to be prohibited in name, under a penalty to the amount of a tenth part of the tax, parliament would be blown into the air, or thrown into a mad-house.

Would it be better, then, upon the whole, for the public to take *all*, and let no relation in for a share? Certainly not in every case: the law is powerful here; but even *here*, the law is not absolutely omnipotent. It can govern *expectation* absolutely, meaning always in as far as it makes itself present to the mind: it can govern expectation absolutely; but governing expectation is not everything. It may prevent me from being *disappointed* at not having bread to eat; but if, by preventing my having bread to eat, it starves me, it will not prevent me from suffering by being starved. It can save me, in this way, from *ideal hardship*, but not from *corporal* sufferance. It can save me from disappointment at not *beginning* to enjoy, but it cannot save me from disappointment at not *continuing* to enjoy, after the habit of enjoyment has grown upon me. Hence the necessity of consulting the rules of precautionary tenderness that have been exhibited above.

Unburthensomeness is a praise that belongs to this mode of supply in another point of view: with reference to the business of *collection*. In many instances, so great is the incidental burthen accruing from this source, as almost to rival in real magnitude, and even eclipse in apparent magnitude, the principal burthen which is the more immediate fruit of the fiscal measure. This is more eminently the case in the instances of the *customs* and the *excise* — of those branches of taxation by which by far the largest portion of the revenue is supplied. The officer of excise goes nowhere where he is not a guest; and of all guests the most unwelcome. The escheator will have nowhere to go where he is not *at home* — into no habitation, into no edifice, not so much as upon a foot of land, which is not to this purpose — which is not, as against all *individuals*, his *own*. No jealousies — no collision of rights — no partial occupations extorted at the expense of the comfort and independence of proprietors. The excise is not only the most productive branch of the revenue, but the most capable of extension, and therefore the most liable to be extended. It can surely be no small merit in the proposed supply, in addition to its other merits, that in proportion as it extends, in the same proportion it puts a stop to the extensions of the excise.

2. The advantages that follow are of minor importance. The advantage of checking litigation in this way, by the diminution of its ailment, is, however, not to be despised. The fishing in the troubled waters of *litigation*, for the whole or a part of the property of a distant relation, or supposed relation, is one of the most alluring, and at the same time most dangerous pursuits, by which adventurers are enticed into the lottery of the law. It is like the search after a gold mine — a search by which the property of the adventurer is too often sunk before the precious ore is raised. Causes of this nature are by no means unfrequent in Westminster Hall; the famous *Selby* cause was a bequest nominally to relations, really to the profession. This source of litigation would be effectually dried up by the measure here proposed.

An item which may naturally enough be added to the account of advantage, is the favour shown to *marriage*, and in particular to *prolific marriages* — the sort of marriages of which the title to legislative favour stands in the most plausible point of view.

That the influence of the system in question would be favourable to marriage, and in particular to prolific marriage, will hardly be disputed. Of fathers and mothers of families, it leaves the powers untouched: — it places them, in comparison with single persons of both sexes, in a situation of privilege and pre-eminence. Within the threshold of him whose marriage has fulfilled the ends of marriage, the foot of the officer of the revenue has no place. His will is executed in all points; whatever he bequeathes—to whomsoever he bequeathes it — offspring, relation, or stranger — passes without deduction. Whatever restriction it imposes, is all at the expense of the celibatary and unmarried. If with propriety it could be styled a *tax*, it would be a *tax* on *celibacy*.*

An advantage of a less questionable nature is the popularity which seems the natural effect of any measure wearing the complexion above mentioned; for popularity, it must be confessed — popularity, how hollow soever he the ground it stands upon — can never be refused a place among the advantages of a measure. Satisfaction on the part of a people — satisfaction, so long as it subsists, is a real good — so long as it subsists, its title to that appellation is altogether independent of the source from which it flows. If, indeed, the utility of the measure be illusory, then, indeed, when the illusion is dispelled, there is an end of the advantage; but the advantage, so long as it continued, was not the less real. Happily, in the present instance, the advantage is not only *real*, but *pure*. Though in the way of afford-

* *Better to have nothing than to have a share*, (says an objector.) *How can that be? Is not the man himself the best judge? Ask him, then, which is best for him—share or no share?* My answer is — the question does not meet the case. You suppose his attention previously drawn to the subject: — you have raised his expectation; you have given him his option between *some* and *none*: — that being the case, his answer, it is true, cannot but be as you suppose. Not to come in for anything, would now be a disappointment. It will even be a disappointment should the share he gets prove smaller than what he hoped to get; and the disappointment will be not less, but greater, if he gets no share at all. True; but all this depends upon the *option*: accordingly, in the case *you* suppose, there *is* an option given; whereas in the case *I* suppose, there is *none*. When an estate in England has been limited away from a man altogether, he never looks at it: — what should lead him? he has no more option in it than in the kingdom of Spain.

† Try the experiment upon a hungry child: give him a small cake, telling him, after he has got it, or even before, that he is to give back part of it. Another time, give him a whole cake, equal to what was left to him of the other, and no more, and let him enjoy it undiminished: — will there be a doubt which cake afforded him the purest pleasure?

* In my own estimation, the good that can be done by any encouragements of a *positive* nature given to marriage, shows itself, I must confess, in a very questionable point of view; but the reasons in support of this opinion not being to the present purpose, will be better spared than given. I say *positive*; for as to the negative kind of encouragement that, in the instance where any obstacles of a political nature can be shown to subsist, may be afforded by the removal of those obstacles, the utility of this species of encouragement stands upon a footing altogether different.

ing encouragement to marriage, the proposed measure should in truth be of little service, any farther than as it happened to be thought to be so, the pleasure of seeing it popular on this score may be indulged with the less reserve, as the delusion, if it be one, is not in this instance attended with any pernicious consequences.

SECTION IV.

ORIGINALITY.

IF the proposal relative to this resource be not an *original* one, its want of originality may be seen to afford an objection. If not original, it has been *proposed;* and if it has been proposed, it has been *rejected*, for assuredly it has not been adopted anywhere.

A *tax on successions* might at first glance present itself as bearing a resemblance to the resource in question; as being a sort of modification of it — a commencement towards it — as forming in a manner a branch of it. But we have already seen how perfectly dissimilar, or rather opposite in effect, the *tax* is to the *regulation*, and how much the difference is to its disadvantage. A tax on successions lies as heavy on the individual as it falls light into the Exchequer.

Taxes on successions (not to mention the old Roman tax, the *vicesima hereditatum*, the 5 *per cent.* on collateral successions) exist already in this country: they exist in the form of a stamp-duty, in some degree proportional, on probates and letters of administration; they exist in the form of a stamp duty on receipts for legacies and distributive shares. As to the duties on legacies, in what proportion they are *paid* I do not know; but I am sure they are *evaded*, and very frequently evaded. One should be almost sorry if they were *not* evaded: they are evaded in proportion as confidence prevails in families. The whole mass of property goes in the first place into the hands of individuals; a course which, indeed, it could not but take, so long as the resource is left to stand upon the footing of a tax. The private executor sets out with getting everything into his hands: the public gets what this most confidential friend of the deceased thinks proper to bestow; of course he will not bestow anything at the expense of the friend of his testator, so long as he can persuade himself with any tolerable assurance that the person he is befriending will not requite his generosity with such a degree of baseness as to make him pay the legacy over again out of his own pocket.

Another circumstance concurs in diminishing the productive power of a tax upon successions. When the duty amounts to a sum which appears considerable, the levy being a tax — a tax to be levied on an individual, and levied all at once, it wears so formidable an aspect, that the man of finance himself is startled at it: he accordingly reduces the rate, and the higher the legacy mounts, the more he reduces it; so that all proportionality is destroyed. By this means, the better a man can afford to pay, the less it is he pays; and the tax has the appearance of a conspiracy of the richer against the poorer classes of mankind.

Whence comes this? Only from its being raised by a *tax*, and not by a *regulation*, as above proposed. Under the regulation, the public will pay itself; the officer of the public will have the staff in his hands; a partiality as unfriendly to the interests of finance as it is unseemly in the eyes of justice, will disappear, and wealthy successions will yield in proportion to their opulence.*

SECTION V.

PRODUCE.

To Mr. ————

Instead of the matter destined for the present section, I must content myself for the present with sending you little more than a blank. I could not have filled it up without attempting to lead you into a labyrinth of calculations, which, after all, I could not render complete, for want of *data*, without your assistance, and which, if the *principle* of the measure should not be approved of, would have no claim to notice.

Meantime, as the result of the calculations need not wait for the calculations themselves, and as a supposition of this sort, however imperfectly warranted, may be more satisfactory than a total void, I will beg your indulgence for the following *apperçu*.

Net annual produce of this resource, upwards of £2,000,000 over and above the expense of collection: —

Expense of Collection.

Escheators and sub-escheators, at 5 per cent. upon the above produce, ...	£100,000
Judicial establishment for the purpose, at 2½ per cent., which I apprehend could not be dispensed with, ...	50,000
Total, at 7½ per cent.	£150,000

* The freshest and most considerable tax upon legacies and shares in successions (that of 29 Geo. III. c. 51, anno 1789,) has freed itself so far from this objection; but the duties on probates and letters of administration remain exposed to it; as do the anterior taxes on legacies and shares in successions imposed by 20 Geo. III. c. 28, anno 1780. The reason, in the instance of the duty on probates and letters of administration, seems to be, that in that stage the value of the subject can only be *guessed at*, whereas in the other cases it has been *liquidated*.

It is natural I should be over sanguine; but I must confess I should expect to find the above sum below the mark, rather than above it. The calculations in their present state point at three millions; but then there are deductions to be made on one hand, as well as additions on the other.*

For my own part, if it depended upon me, I should be very much disposed to turn my back upon calculations; for if the *principle* of the resource be but approved of, £200,000 a-year would be as sufficient a warrant for it as £2,000,000, since, whether much or little, it would be all so much clear gain, unfelt by anybody in the shape of a loss.

The calculations, however, such as they are, can be submitted at any time upon a day or two's notice. They will, at any rate, afford a view of the *data* the subject affords, of the difficulties to be overcome, and of the uncertainties which are not capable of being cleared up without the aid of parliament.

SECTION VI.

APPLICATION.

A WORD or two may not be amiss respecting the application of the produce. In general, this topic may seem foreign enough from the consideration of the supply itself; but that, as we shall see, is not altogether the case here.

In time of full peace, the floating debt provided for, there are but two options with regard to the application of a new supply: reduction of debt and extinction of taxes; for current service is already provided for by existing funds.

In time of war, there are two additional options: pledging for interest of loans, and application to current service.

I will begin with the case of war; for though the measure would be equally fit for establishment at either season, yet war is certainly that which holds out to it the most promising chance for being actually established. *Necessity*, the mother of *invention*, may then be the mother of *adoption* too, which of the two, is by much the hardest offspring to bring forth.

I should not wish, or even expect, to see the produce of this resource appropriated to current service; I should not wish, or even expect, to see it among the mass of pledges given as security for a loan. The novelty of its complexion, the uncertainty of its amount, both seem to preclude it from either destination: it may be prodigious, it may be nothing. there is *no saying* what it may be *taken* for. resources more according to the usual model, and therefore regarded as more certain — *taxes*, in a word, would be the supplies naturally destined to such service.

There remain, *discharge* of debt, and *extinction of taxes*. Between these two employments I would wish to see it divided, and perhaps pretty equally divided.

There is one portion that could not well be refused to the discharge of public debt — even in war-time — even under the pressure of any exigency: I mean the portion which exists already in that shape — where the property consists of a debt due from government, to be discharged by an annuity till paid off; in a word, property in government-annuities, or (as it is commonly termed, to the great confusion of ideas) *money in the funds*. The extinction of so much of the debt is here so natural a result, that it may be set down as an unavoidable one: — to keep the debt alive, and sell it for the benefit of government (just as, if it had fallen into individuals hands, it might have been sold for the benefit of individuals,) will surely not be thought of.

Remit taxes? and that in war time? That would be an extraordinary employment for it indeed! Extraordinary, indeed, but not on that account the less eligible: novel blessings shine but the brighter for being new.

An opportunity would, by this incident, be presented, and perhaps this is the only incident by which such an opportunity could be presented, of shaking off the yoke of some of the most oppressive taxes. The whole list would then be to be overhauled, and the worst chosen, picked out, and expunged.†

Those which, to my conception, would stand at the head of the list, are, as I have said already, the taxes upon justice. In relation to these, I can speak with confidence, having sifted them to the bottom, and demonstrated them — or I know not what de-

* The documents resorted to as *data* for calculation, were the instances of *collateral* succession in different degrees, compared with those of *lineal* succession, as indicated by the publications on the peerage. The *data* thus obtained were digested into Tables, including Scotch and Irish, as well as English and British, existing as well as extinct.—*Note added Dec.* 9, 1795.

† *Fresh* taxes have, in many instances, been repealed upon fresh experience of their ineligibility or unpopularity; examples of the repeal of an *old-established* tax are rare indeed.

That of the *tax on coals borne coastwise* is an instance as honourable to those with whom the repeal originated as it is rare. As to the taxes not *taken off*, but *reduced*, on the institution of the commutation tax, the reduction was made, not because they were *ill-chosen*, for they were nothing less than ill-chosen, but because they had been strained so high as to become *unproductive*: it was made, not for *relief*, but for *revenue*.

monstration is — to be the worst of all taxes, actual or possible.

Further from the precise limits of the subject I will not attempt to stray; unless it be for a fantastic moment in the way of reverie. Pure as we have found the resource to be from *hardship*, and, in all human probability, from *odium*, how pregnant may we *imagine* it at least to be of *relief!* No law-taxes — no prohibition of justice. No tax on medical drugs — no prohibition of relief from sickness and from death. No window-tax — no prohibition of air, light, health, and cheerfulness. No soap-tax — no prohibition of cleanliness. No salt-tax — no prohibition of the only sustenance of a famished people.* Make the most of this resource, and, if not all these reliefs, at least the most essential of them, might, perhaps, be afforded, even under the pressure of the war. To do all this, and government never the poorer! To do all this, and have a rich surplus for the sinking fund! what a feast for humanity! what a harvest of popularity! what a rich reward for wisdom and virtue in a minister!

It is scarce necessary to observe, that neither in any of those ways, nor in any other, should specific relief be engaged for, till the means of relief are actually in hand. The produce should be taken for nothing, till it is actually in the Exchequer. When a year of probation is elapsed, the amount will, for any reason that can be alleged to the contrary, be as uniform as that of the steadiest tax.

SECTION VII.

HEADS OF OBJECTION, WITH ANSWERS.†

OBJECTION I. *Supposed tendency to promote dissipation of the national wealth*, by leading men to live upon their capitals, or sell them for annuities for their own lives, in consequence of their being restrained from benefiting those that are dear to them after their death.

Answer: No such tendency; for —

1. A man *will not* bar those that are *dear* to him, from receiving *any* part, only because there is *some* part that he *cannot* enable them to receive.

2. Nor *himself* from disposing in that manner of *any* part, only because there is *some* part that he can *not* so dispose of.

3. The power of benefiting others after death is not the sole motive to accumulation: another, and a still stronger and more universal one, is the faculty of increasing a man's fund of personal enjoyment during life — a faculty which would be at a stand, if he parted with his capital for an annuity.

4. Such dissipation, were it really to be, in here and there an instance, the result of the measure, would only be a *diminution*, and that a most trifling one, from the *benefit* of it — not any *objection* to the *principle* of it.

Objection II. Breach of faith in the instance of property in the funds.

Answer: Not unless *confined* to that species of property, which is not proposed, —

No more than the *existing* taxes on *distributive shares* and *legacies*, which, in as far as there is nothing else to pay them, must come out of any property a man had in the funds: no more than any tax on consumption, which must fall upon *stockholders* in common with other people; since, in as far as a man's own income arises out of the funds, every tax he pays is paid out of what he has in the funds.

Property is not in this way the *more* affected for being in the funds; since in any other shape it would be equally reached by the proposed regulation.

Objection III. *Breach of faith in the instance of foreign stockholders resident abroad*, who would not have been affected by the taxes in lieu of which this would come.

Answer: None; for they may sell out.

Reply: The sort of obligation they will thereby be laid under to sell out, is still a hardship; the more, as their submitting to it will lower the price.

Answer: Yes; were many likely to sell out on this account, but that is not in the case, —

1. Because much of such stock is in the hands of *bodies corporate*.

2. Among individuals, it is but a small proportion that will be destitute of relations *within the pale*.

3. Fewer still who would take to heart to such a degree a restriction from which a man's near relations stand exempted.

4. Feeling it to be in his power to sell out at *any* time, a man would neither sell out at *first* nor *afterwards*.

Objection IV. It is *pro tanto* very much exposed at least to evasion.

Answer: 1. To none but what may be pretty effectually guarded against by proper *registers*, &c.

2. If it could not, the objection applies, not to the *principle* of the measure, but only to the *quantum* of advantage.

3. It removes *pro tanto* the objection of *breach of faith* so far as a man *evades*, so far he is *not hurt*.

Objection V. Tendency to sink the price of land by glutting the market with it.

Answer: 1. No reason for supposing it will tend to *sink* the price in one way, more than it will to *raise* it in another; for,

1. Income arising out of *land* being more generally eligible, will always fetch more than equal income arising out of the *funds* — still more than equal income depending upon mere *personal* security.

2. Nothing, therefore, can sink the price of land, without sinking that and the price of stocks together; nor without sinking the price of stocks more than the price of land; nor raise the price of stocks without raising the price of land.

3. It will tend to *raise* the price of stocks at any rate, as to that part of the property it attaches upon, which it finds *already* in the shape of stock, and which it will of course extinguish and take out of the market. As also in respect of whatever other part is applied to the extinction of the public debt.

Admitted, that a depreciation in the price of property in land, in comparison with that of property in the funds, might take place, if land were as yet at a monopoly price, as Adam Smith seems to think it is. B. iii. c. 4.

But this does not seem to be the case, since a man can make *three per cent.* by laying out his money in land, when he can make but *three and a half per cent.* by laying it out in the funds; which is no more than an adequate difference for the difference in point of general eligibility between the two sources of income.

2. A fall in the price of land is considered not as an ineligible, but as an eligible event, by Adam Smith (B. iii. c. 4,) though not by me, who, referring everything to the feelings of individuals, regard the sensation of loss thus produced, as an evil outweighing every possible advantage.

Objection VI. Money thus obtained will be *collected* at greater *expense* than if obtained from taxes.

Answer: 1. No particular reason for thinking so.

2. Were this clear, it would afford no objection, because none of the *hardship* would be produced here, which is the result of expense when defrayed by taxes.

Objection VII. Increase of the influence of the crown by the new places that would be necessary.

Answer: 1. Not more from *this* mode of supply, than from any other of equal magnitude.

2. Were the objection anything determinate, the weight of it would bear, not against a *useful* establishment like this, but against *useless* or *less useful* places.

3. The objection, if it were worth while, might be got rid of in part, by giving the appointment of *escheators* to the *freeholders*, who now have the appointment of *coroners*.

Objection VIII. The powers that must be given for the purpose of collection would be abused.

Answer: 1. This mode of supply is not more open to abuse of power, to the *prejudice* of the individual, than any other.

2. Abuse of power by undue *indulgence* to the individual, to the prejudice of the revenue, goes only to the *quantum* of the advantage, and forms therefore no objection to the *principle* of the measure; and as to the individual, so far as he is *indulged*, duly or unduly, he is not *hurt*.

3. Abuses of both kinds may be more effectually checked in this instance than in others; viz. by the publicity that, even for other purposes, would require to be given to the proceedings.

The remark, though bad as an *objection*, is good as a *warning*, and as such would be attended to.

Objection IX. By the facility it would give to the business of supply, it would be an encouragement to *profusion* on the part of government.

Answer: If this were an objection, the most burdensome mode of supply would be the best.

Rendering supply more burthensome than it might be, is a remedy worse than the disease; or rather an aggravation of the disease, to the exclusion of the remedy.

The following are the suppositions which the objection must take for granted: — 1. That all expenditure is unnecessary; 2. That this mode of supply would be submitted to; 3. That no other would.

It would be a strange inconsistency if those who could not be brought to adopt other modes of checking profusion, could, in the mere view of checking profusion, be brought to reject this mode of supply.

Objection X. It would make a *revolution* in property.

Answer: The tendency of this objection, the force of which consists altogether in the abuse of a word, is to point to a wrong object the just horror conceived against the *French* revolution. The characteristic of *that* revolution is to trample in every possible way upon the feelings of individuals. The characteristic of *this* measure, is to show more tenderness to *those* feelings, than *can* be shown by the taxes to which it is proposed to substitute it.

Objection XI. The property of the nation would thus be *swallowed* up in the Exchequer.

Answer: No more than by taxes to the same amount.

Objection XII. It would be a *subversion* of the ancient law of inheritance in this country.

Answer: A *quiet* alteration, made by a mere *extension* given to the *old* law — to a branch more ancient than almost any of those at the expense of which it is extended. No *subversion*, except in as far as every *amendment* is a *subversion*.

Objection XIII. It would be an *innovation*.

* Fish to the Highlanders of Scotland.

† *To Mr.* ——. This is but an index: the objections and answers are given at large in the body of the paper.

Answer: No more than every *new* law; nor, as we have seen, so *much* as most new laws: no more than a set of taxes to the same amount.

Not so much; for all the revenue laws we have, are *innovations* in comparison with the law of *escheat*.

SECTION VIII.

EXISTING LAW.

CAN anything of *harshness* be imputed to the proposed measure? Not when viewed by itself, we have seen already. View it, then, in comparison: turn to existing law. No exclusion of the father *here* as *there* on pretence of the *ponderosity* of inheritances: no exclusion of the half-blood, as if the son of my father or my mother were a stranger to me: no exclusion of all children but the first born, as if the first born only lived upon food, and all others upon air: no exclusion of the better half of the species, as if the tender sex had no need of sustenance. The feelings of individuals — sole elements of public happiness — these, and these only, are the considerations that have *here* been exclusively consulted, and their suggestions undeviatingly adhered to;— human feelings, the only true standards of right and wrong in the business of legislation, not lawyers' quibbles, nor reasons of other times, that have vanished with the times.

Pursue the comparison yet farther: on the one hand, no harshness at all, as we have seen; on the other, a harshness which is incurable. The proposed law, taking nature for its guide, leads expectation by a silken string: the existing law, pursuing the ghosts of departed reasons, thwarts expectation at every step, and can never cease to do so. It does so, because it is in the *speechless* shape of *common* law; and it would do so still, even though *words* were given to it, and it were converted into statute law. Reasons rooted in utility, are so many anchors by which a law fastens itself into the memory: lawyers' quibbles are a rope of sand, which neither has tenacity of its own, nor can give stability to anything else. Rules and quibbles together, the impression they make upon the mind is that of the wind upon the waves; and when incidents spring up to call them into action, the sensation produced is the sensation of a thunder-stroke.

SECTION IX.

ANCIENT LAW.

SHALL we dig into antiquity? The result will be still more favourable. Reckoning from the subversion of the Roman empire, property, considered as surviving to the proprietor, is comparatively of modern date. Under the feudal system, in the morning of its days estates greater than life estates were unknown; the most fixed of all possessions fell back into the common stock upon the death of the possessor; and before the reign of the Conqueror was at an end, the feudal tree, transplanted from the continent into this our island, had covered almost the whole surface of the kingdom with its gloomy shade. This venerable system had, indeed, before that period, lost a good deal of its vigour, which is the same thing as to say its rigour; and the principle of succession had taken root under it, but not without being loaded with conditions, and weakened by defalcations and distortions, over and above those which have been already glanced at, and which we are plagued with to this day. The relaxation, too, was an innovation, which, in the vocabulary of antiquarian idolatry, as well as of indiscriminating timidity, means a corruption of the primeval state of things.

At a much later period, moveable property took, if not exactly the same course with immoveable, a course more opposite to that indicated by utility, and equally repugnant to that which seems prescribed by nature. The more substantial part — the immoveable — had been reserved for the maw of feudal anarchy: the lighter part — the moveable — was carried off by some holy personage for *pious uses;* and of all uses, the most pious was his own. Moveable and immoveable together, power without mercy, or imposture without shame, took the whole under their charge; the claims of the widow and the orphan were as little regarded as those of the most distant relative. So late even as the latter part of the reign of Edward III.* it required an exertion of parliamentary power to make the man of God disgorge, in favour of the fatherless and the widow.†

The right of bequest, the right of governing property by one who is no longer in existence to enjoy it, is an innovation still more modern. In its relation to moveables, it was conquered from the spiritual power by gradual and undefinable encroachments: the validity of its exercise having, from the conquest to the present time, depended on the decision of that same power, which, till the above-mentioned statute of Edward III. was interested in denying it: and after the right was secured, the facility of its exercise must for a long time have been confined within narrow bounds by the scarcity of literary acquirements. In its relation to immoveables, it was not placed on solid ground till the statute of Henry VIII., and then only by implication: nor (to take the matter in the words of Blackstone) was it "till even after the restoration, that the power of devising real property became so universal as at present."*

All this while, the law of escheat, coeval with the reign of the Conqueror, dwelt upon as a subject of importance in the reign of Henry II.,† touched upon by a numerous series of statutes reaching down as low as Edward VI., recognised by decisions of so recent a period as the late reign,‡ exists in indisputable vigour; although the facility of tracing out heirs in these times of universal and instantaneous communication, added to the want of an administrative establishment, adapted to the collection of such a branch of revenue, prevent it from being noticed in its present state in the account-book of finance.

* 31 Edward III. parl. 1, ch. ii. 9, co. 40, in Burn's Eccl. Law, iv. 197.

† Hume has fallen into a mistake on this subject, in supposing that in the reign of Henry II. moveables were the prey, not of the spiritual power but the temporal. "It appears," says he, vol. i. anno 1100, "from Glanville, the famous justiciary of Henry II., that in his time, where any man died intestate, an accident which must have been frequent when the art of writing was so little known, the king, or the lord of the fief, pretended to seize all the moveables, and to exclude every heir, even the children of the deceased, — a sure mark of a tyrannical and arbitrary government."

So far Hume, referring to Glanville, I. vi. c. 16. But what Hume understands of intestates in general, Glanville confines to bastards.

* II. Comment. ch. i. † Glanville, I. vii. c. 17.

‡ [George II.] Atkyn's Reports.

SECTION X.

BLACKSTONE.

IS *opinion* worth resorting to? A poor warrant, after the *fiat* of utility written in characters so legible. In morals, in politics, in legislation, the *table of human feelings* is, I must confess, to me what the Alkoran was to the good Mussulman: opinions, if unconformable to it, are false — if conformable, useless. Not so to many a worthy mind: for their satisfaction, then, even this muddy source of argument shall not remain unexplored. Shall Blackstone, then, be our oracle? Blackstone, the most revered of oracles, though the latest? From him we have full licence—from him we have a latitude outstretching, and that even to extravagance, the utmost extent which either humanity or policy would permit us to assume. But let us hear him in his own words: —

Blackst. Comment. II. 12. "Wills, therefore," says he, "and testaments, rights of inheritance, and successions, are all of them creatures of the civil or municipal laws, and accordingly are in all respects regulated by them; every distinct country having different ceremonies and requisites to make a testament completely valid: neither does anything vary more than the right of inheritance under different national establishments. In England, particularly, this diversity is carried to such a length, *as if it had been meant to point out the power of the laws in regulating the succession to property, and how futile every claim must be, that has not its foundation in the positive rules of the state.*" — "In personal estates, the father may succeed to his children; in landed property, he can never be their immediate heir, by any the remotest possibility; in general, only the eldest son, in some places only the youngest, in others, all the sons together, have a right to succeed to the inheritance: in real estates, males are preferred to females, and the eldest male will usually exclude the rest: in the division of personal estates, the females of equal degree are admitted together with the males, and no right of primogeniture is allowed."

Thus far our Apollo. Legatees, we see, are nothing to him; he sacrifices parents to us, and even children; he sees not that children are not only *expectants*, but *co-occupants*.

No sympathy for disappointed expectation— no feeling for beggared opulence — no regard for meritorious service — no compassion for repulsive infirmity, obliged to forego assistance, or to borrow it of selfish hope. The law, his idol, has no bowels: why should we? The rights of legatees, the rights of children, are mere creatures of the law; as if the rights of occupants were anything more. Of wills, or even succession, he knows no use but to prevent a scramble.

The business of succession is a theatre which the laws of nations have pitched upon, as it were, in concert, for the exhibition of caprice; none with greater felicity than the law of England. She has her views in this, and they are always wise ones: — to insult the subject, to show him what arbitrary power is, and to teach him to respect it.

"This one consideration," continues he, "may help to remove the scruples of many *well-meaning* persons, who set up a *mistaken* conscience in opposition to the rules of law. If a man *disinherits his son* by a will duly executed, and leaves his estate to a stranger, there are many who consider this proceeding as *contrary to natural justice;* while others so scrupulously adhere to the supposed intention of the dead, that if a will of lands be attested by only *two* witnesses instead of *three*, which the law requires, they are apt to imagine that the heir is bound in conscience to relinquish his title to the devise. But both of them *certainly proceed upon very erroneous principles;* as if, on the one hand, the son had by *nature* a right to succeed to his father's lands; or as if, on the other hand, the owner was by nature entitled to direct the succession of his property after his decease. Whereas, the *law of nature* suggests, that on the death