

# 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 7<sup>TH</sup> 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

\* 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 53, if married to a wife above 48.

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 where-fore 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 same time, 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. ‡

‡ 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; Coccejii, 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 im-

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 personality: 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.

posed 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.







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.

\* 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.

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*.

ii. 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.

iii. 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*.





