



Bodleian Libraries

UNIVERSITY OF OXFORD

This book is part of the collection held by the Bodleian Libraries and scanned by Google, Inc. for the Google Books Library Project.

For more information see:

<http://www.bodleian.ox.ac.uk/dbooks>



This work is licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 2.0 UK: England & Wales (CC BY-NC-SA 2.0) licence.

GENERAL OBSERVATIONS

ON

THE POWER OF INDIVIDUALS

TO PRESCRIBE, BY TESTAMENTARY DISPOSITIONS,

THE PARTICULAR FUTURE USES TO BE MADE OF
THEIR PROPERTY;

*Occasioned by the last Will of the late Mr. PETER THELLUSSON,
of London.*

BY

JOHN LEWIS DE LOLME, LL. D.

AUTHOR OF THE BOOK ON THE "CONSTITUTION OF ENGLAND."

LONDON:

SOLD BY MESSRS. RICHARDSON, UNDER THE ROYAL EXCHANGE; LAW, AVE-MARIA-LANE;
WHITE, FLEET-STREET; EGERTON, WHITEHALL; AND CLARKE, NEW BOND-STREET.

1798.

(5)



OBSERVATIONS

ON

The power of Individuals to prescribe, by Testamentary Dispositions, the particular future Uses to be made of their Property, &c.

SOME share of public attention has been attracted by the *Will* of the late Mr. Peter Thelluffon ; by which he has directed, that his large property should be preserved undiminished during a long course of years after his death ; and that the profits, rents, and issues of the same, should be laid out in purchases of more property : the profits and issues of such purchased additional property being moreover to be also laid out in other fresh purchases ; and so on, progressively, during the period of time described in his *Will*.

Settled accumulating managements of this kind are not unfrequent ; but their being generally undertaken with middling stocks of property, and for moderate terms of years, together with other circumstances hereafter mentioned, has hitherto prevented the illegality of such managements from being remarked upon. In regard to the property directed by the *Will* of the late Mr. Thelluffon, to be settled upon an accumulating management, it amounts to no less a sum than Seven Hundred Thousand Pounds : and the

term of years during which the accumulating management is prescribed to be carried on, is very likely to extend to eighty years. It is to last during the lives of all the Persons of his issue who were existing at the time of his death, in July 1797. Some Persons of that issue were just born at that period; and others, though considered to have been then in existence, have been actually born some months after. That Person of Mr. Thelluffon's future issue, upon whom the property is to devolve after the death of the last liver of the present issue, may, moreover, happen to be a minor at the time of his coming to the property; so that an additional period of ten, or fifteen, or twenty years, may happen farther to lengthen the duration of the accumulating management.

The magnitude of the scale according to which such accumulating management has been settled by the *Will* of Mr. Thelluffon, has turned the attention of the Public towards the subject of such kinds of management; so that the present is become a proper period for examining into such a subject, and shewing that such schemes and managements are contrary to Law. By the word Law, I do not mean to speak of the practices of particular Courts; but I mean those Rules which it may be just and wise to hold forth to Mankind, as proper Rules for them to approve and regulate their dealings by.

The supposition that Individuals have a right to dispose of their property in the modes above alluded to, is usually supported by the allegation, that a Man has a right to dispose of his property. The late Mr. Thelluffon had certainly as good a right to dispose of his property as any Man can have; since, during the time he was acquiring it, he was also serving the Public.—This leads to a short preliminary mention of the manner in which, though living somewhat expensively, he had happened to accumulate such a stock of property as is seldom collected together by one Individual.

The late Mr. Peter Thelluffon was the third Son of Mr. Isaac Thelluffon, a Citizen of Geneva, who, about the year 1740, was settled in Paris, where he kept one of the first banking-houses in that City. He was afterwards the Resident Minister of Geneva, at the Court of France; and, it seems, he acquitted himself on some particular occasions in a very satisfactory manner, since he received presents

presents both from the Court and from his Republic: part of which presents having, it appears, afterwards fallen to the share of the late Mr. Thelluffon, he has, by his last *Will*, bequeathed them to his eldest son (a).

About the year 1754 Mr. Isaac Thelluffon died, leaving the bulk of his fortune to his two eldest Sons, and twelve thousand pounds a-piece to his other six Children; namely, the late Mr. Peter Thelluffon his third Son, another Son, and four Daughters. The banking-house in Paris devolved upon Mr. George Thelluffon, the second Son; the eldest having before chosen to enter into the military service of France.

Monsieur Necker, the celebrated Financier, began his career by being admitted as a Clerk in that house; and was afterwards taken as a Partner by Mr. George Thelluffon, under the firm of *Thelluffon and Necker*. The late Mr. Peter Thelluffon chose to settle in London. He had a present property of £.12,000 already in his hands, joined with a very great degree of industry. But, along with these favourable circumstances, he also possessed an incomparable advantage for a beginner; namely, being in a situation of intimate correspondence with the great banking-house of Thelluffon and Necker; by which means he was also enabled to correspond with all the great commercial houses in Paris, as well as other great trading Cities on the Continent. These advantages Mr. Peter Thelluffon improved with surprising activity; so that, at the same time that he benefited himself first, no doubt,—he proved the means of increasing the commercial intercourse and dealings between England and France, and also the Continent.

But, however meritoriously the late Mr. Thelluffon may have acquired his fortune, it does not follow that he had it in his power to dispose of it in the manner above described.

A Man,

(a) “ To my son, Peter Isaac Thelluffon, the gold snuff-box which Louis XV. gave to my father, containing the portrait of his son the Dauphin, father to Louis XVI.; the silver medal, being a copy of the gold one given to my father by the city of Geneva; also the large silver coffee-pot and salver given to him by the said city, with the arms of Geneva thereon.”

A Man, it is said, may dispose of his property. Very true; he may dispose of his property, but he may not dispose of the properties and the rights of other Men.

If a Man disposes of his property by naming certain Persons who are to hold this property after his death, it is very well: this is not unlike the business usually carried on among Mankind, who may transfer their property.

But, if a Man means to dispose of his property by prescribing some particular settled use, which is to continue to be made of this property after his death, such prescription is an attempt on the rights and properties of other Men, as will presently appear.

In fact, a Man who prescribes any particular settled rule of using his property after his death, gives a Commission or Trust to be executed at a time when it shall be entirely out of his power, in any manner, to alter or modify such Rule, Commission, or *Trust*. And the *Executor* or Agent, who undertakes to execute such *Trust* or Commission, likewise knows that it will be entirely impossible for him to consult, in any shape, with his *Employer*; and that, therefore, he is to have no possible means, in any possible case or shape, to try to modify that Commission or *Trust* which he engages to execute.

By accepting such *Trust* or Commission, a Man, or an *Executor*, in fact puts himself in an extraordinary sort of a situation: for the acts enjoined by such *Trust* may, perhaps, become prohibited by Law. For instance: if the *Trust* has been that the *Executor* should continue to use a certain sum of money annually in purchasing and importing certain articles of foreign commodities, it may happen that those articles may become prohibited to be imported. Or, if his *Trust* has been that he should continue to use the money in causing certain articles to be manufactured at home, the Legislature may happen to prohibit the manufacturing of those articles, as being a dangerous business. Yet the *Executor* has positively bound himself to continue to cause the prohibited articles to be either imported, or manufactured: he has bound himself to do so by accepting his Trust: he has, in general, bound himself publicly to transgress against any Act of the Legislature that may happen to be contrary to that Trust; since he knew, when

he accepted it, that he was to have no possible means, in any possible case or shape, to try to modify it.

Let us borrow instances from the *Will* of the late Mr. Peter Thelluffon. One of the *Trusts*, or *Commissions*, expressed in that *Will* is, that, after the death of all the Persons whatever of his issue who were living in July 1797, his *Executor* shall seek out such other Persons of his next issue as may then be living, and were born posterior to said July 1797. To three of those then-living persons (or only to two, or one, if no more are in existence) the *Executor* is to transmit the whole mass of the then-accumulated property, under the express condition that *they shall thenceforth severally use the surname of Thelluffon only*. Now, who knows but that the name of *Thelluffon* may perhaps, on some future occasion, become prohibited from being used? Prohibitions from using certain family names, on account of the imputed guilt of particular Persons who had borne such names, have taken place in different Countries. In this Country, Acts of the Legislature have been passed, forbidding certain Clans in Scotland to wear a certain particular kind of dress, and also to use certain particular names—their own real family names. It is not, therefore, impossible that the using of the name of *Thelluffon* may become prohibited by some Act of Parliament. Nay, it may perhaps happen that some Person of that succeeding issue, for whom the *trusted* property must continue to be accumulated, may become so elated at the prospect of the enormous mass of gathering and heaping property, as to run into excesses of such a stupendous nature, that they may actually induce the Legislature to proscribe and exterminate the name of *Thelluffon*. Yet the *Executor* of the *Will* has bound himself and his Assigns, at the appointed distant period, to apply to the described Persons of the succeeding issue, notwithstanding the Act of Parliament just supposed may have been passed. He must seriously propose to those Persons to use at all times the surname of *Thelluffon* only; and, moreover, attempt to bribe them so to use that prohibited name by tendering to them, as the bribe, the whole huge mass of the heaped property; at the same time giving them absolute notice, that, in case of their refusal, he will positively not let them have any part whatever of that property. The *Executor* has strictly bound himself to do

all these things, when he engaged to execute a *Trust* or Commission which he knew he was to have no possible means, in any possible case or shape, to try to modify.

The same *Will* of the late Mr. Peter Thelluffon suggests another instance of an *Executor* being invited to go against possible future Acts of Parliament, and set them completely at nought; and, in fact, all Acts whatever. By an article of that *Will* the *Executor* is enjoined never to keep more than five hundred pounds in the hands of any private Banker; but to take care that all such sums of money as he may receive, exceeding five hundred pounds, shall, as soon as received, be lodged by him in the Bank of England, and there left to remain until those purchases of land directed by the same *Will*, shall come to be successively procured and ready to be executed. Now, it is possible that the depositing of money in the Bank may become prohibited by some future Act of Parliament. In the course of those revolutionary struggles, oppositions, and contrarities, that frequently take place in this Country as well as in others, it may happen that the *Direction* of the Bank may become the seat of some dangerous, obstinate opposition to the established Government. Great Parliamentary Leaders of Opposition may find their way into the *Direction*, in the same manner as, at a certain particular period of the last century, they used to put up for offices in the City. A number of the wealthiest Bank Proprietors may be brought over to favour the scheme. Curious new-devised means may be employed for obtaining, and afterwards retaining, the money of Individuals. An engrossment may be effected of the whole unemployed money of the Country, so as to leave Government, in a manner, deprived of means of defence in the face either of external or internal Enemies. In such a situation, Parliament may, either by way of present relief to the Government, or of punishment upon the Bank, pass an Act prohibiting the Bank, till leave is again given them, from keeping and receiving any deposits of money from Individuals. Yet the *Executor* of the *Will* of the late Mr. Peter Thelluffon, if he has, at such supposed emergency, more than five hundred pounds in readiness, has bound himself to carry that money to the Bank, and seriously propose it to the Directors to accept the deposit. Should they guiltily consent, the *Executor* has
farther

farther bound himself to leave the money with them, and thus complete his own open counteraction to the Act of Parliament; as he did promise and engage to do, when he accepted a *Trust* or Commission which he knew was positively to be an unmodifiable Commission.

Nay, the Bank Directors themselves may, perhaps, of their own accord, at some future period, be induced by peculiar circumstances to limit their own dealings in regard to receiving deposits of money from private Persons. They may, about such period, have suffered inconvenience from the designing or fantastical arbitrary proceedings of certain wealthy Individuals, making it a frequent practice abruptly to draw off, at once, the whole of the huge sums of money they have in the Bank; by which the Directors have often become obliged to disburse, in too short a time, vast quantities of bullion, or to issue on a sudden greater quantities of fresh notes than they like to do at one time. To prevent the inconvenience, they may make a regulation by which they may limit, to a certain amount, the sum of money they choose in future to keep belonging to any one Person. The *Executor* of the *Will* and *Trust* of the late Mr. Peter Thelluffon may happen, at such supposed period, to have some very large sum of money at the Bank, which he has collected for completing certain extensive purchases of land, which are to be finally executed in some short time. He may, moreover, happen to have just received some other sum; which sum he carries to the Bank, *as soon as received*, conformably to his *Trust*. The Directors observe, that the receiving of that additional sum would exceed the limits they have prescribed to themselves by their late regulation; and say, that they cannot receive the sum. The *Executor* insists with the Directors upon the sum being received. He resolutely tells them, they must alter their regulation; for he cannot possibly try to alter or modify his *Trust*. The *Executor* thinks himself bound to insist farther; and, at last, to commit trespass against other Men in their own house. In short, not only Acts of Parliament are to be set at defiance, but private Persons and Corporate Bodies are, moreover, to be threatened, and attempted to be compelled to give way to him. Laws and private regulations may be altered; but his *Trust* cannot, by any means, be altered.

altered or modified. It was accepted by him under the full, undoubted certainty, that he was never to have any opportunity whatever of consulting, in any possible shape, with his *Employer*; and therefore, with a full previous resolution to begin and continue to execute it, without ever having any possible means, in any possible case or shape, to try to modify the *Trust* or *Commission*.

As one principal strict point of the *Trust*, the *Executor* is enjoined, by the late Mr. Thelluson's *Will*, to collect all the monies that are placed on securities, as well as other monies, and lay them out in purchasing lands. These lands are to be added to the very large landed property which the Testator before possessed; and the profits and rents of all these lands are to be collected, and laid out also in purchasing other additional lands. The *Executor* is to go on, progressively, purchasing land again and again, during the above-described very long series of years, with the whole increasing mass of the rents and profits arising from all the lands purchased and possessed before: by continuing to do which, a prodigious extent of land must unavoidably become at length to be united into one possession. Now, it is possible that an Act of Parliament may be passed, by which the above-mentioned continued purchases may be opposed. An Act may very possibly be passed for regulating the purchase of land, and preventing too disproportionate engrossments of it.

The same Testator farther enjoins his *Executor* to follow a certain proportion between the extents of freehold and of copyhold lands which he is to purchase: freehold lands must be three times the extent or quantity of copyhold lands. Now, it is likewise possible, that an Act of Parliament may, at some time or other, be passed for the purpose of regulating the distribution of freeholds. Nay, perhaps a certain system of equalization in the possession of freeholds, may prove to be one among the means that may be adopted for effecting the much talked-of *Reformation of Parliament*: such expedient might be as good as several which have been suggested. In such case, the Legislature may also think of settling some proportion between the purchases of freehold lands, and of copyhold, that may be made by one Person; and if they do, it is possible they

may adopt some proportion very different from that enjoined by the Testator here alluded to, namely, three times as much freehold as copyhold, in that part of Great Britain called England.

The *Executor* is also enjoined, by the same *Will*, to continue to cut, and fell, all the timber that may be ready to be cut on all the lands put in his possession. But, perhaps, the cutting of timber may happen to be prohibited, or put under some regulation amounting to a kind of prohibition. The cutting of timber was prohibited under the former Government of France; at least till leave had been obtained from a certain public Officer appointed for the District, who used to put his mark upon every large tree that was allowed to be cut.

The same Testator also enjoins, that, in case those Persons of his future issue, upon whom the accumulated property is appointed to devolve, should refuse to use the surname of *Tbelluffon*, his *Executor* shall immediately sell the whole vast extent of the manors, lordships, lands, tenements, &c. that shall have been continued to be progressively purchased and united during the appointed long series of years, and pay the monies arising from such sale into the national Sinking Fund. But, perhaps, some Act of Parliament, intended for the prevention of jobbing in purchases and sales of land, may happen to be passed; and some provisions in that Act may happen to prove contrary to that sudden, hurried sale of lands lately purchased, which is enjoined by the *Will* here mentioned. Such provisions might be upon a principle not very different from those Acts passed in former times, and still continuing in force, by which goods of a certain kind, such as grain, sheep, poultry, &c. which have been bought at any market, are prohibited, during three months after, from being again offered to sale at the same market, or within four miles of it.

Whenever such Acts as the different ones above supposed may happen to be passed, the *Executor* will happen to have bound himself to act with disregard of those Acts, and to go on, nevertheless, with his purchases of land, by tendering high prices as bribes, and with his sales and hurried *re-sales*, by tendering the lands for low prices: he will also go on with the cutting of his timber. He bound himself to disregard those Acts, and every Act of Parliament

that may prove contrary to his *Trust*, when he accepted that *Trust* under the full certainty that it would be impossible for him, at any time, or in any case, to try to modify it. Nay, he did, in fact, profess to despise all possible Acts of Parliament; for he who professes to despise any Act, only one Act, one possible Act, professes to despise all Acts whatever, even those which are actually in existence; for he professes to despise the power of the Legislature.

Nor has it been only for one day, or three days, or for three weeks, that the *Executor* has bound himself resolutely to carry on his unmodifiable *Trust*; but for a period of time which is very likely to last eighty years, and may even last more (as has been observed in page 2): and the *Trust* is to be continued and kept up by Assigns to be appointed by him.

The knowingly accepting such a *Trust*, was a resolution, and a settled engagement taken, to defy the power of the Legislature. It was a real setting-up against the Legislature, and even over the Legislature. All the Persons concerned in the maintaining and carrying on of the *Trust*, may be considered as forming, among themselves, a kind of *Guild* or Corporation bound together by some sort of unlawful vow or oath to despise all Laws. Nay, here it is necessary to observe, that the formal, public ceremony of an oath, has actually been used to enforce the execution of that *Trust* which is to be carried on during, perhaps, more than eighty years, under the full certainty of its never being possible, in any possible shape, to consult the *Employer*. The undertaken business of an unmodifiable *Trust* like this, is a resolution, combination and displayed Association, for the purpose of proceeding and pushing on, against, and over all Laws which the associated Persons shall find contrary to their own combined scheme, or rule, or *Trust*, as they are pleased to call it,—and the bad example publicly held forth of such a resolution, combination and displayed Association.

A scheme of that sort is an attempt and a precedent to set bounds superior to the power of the Legislature. If such principles are allowed, any fantastical Politician may become enabled, by means of his last *Will*, and establishing a *Trust*, to raise his own fantastical notions as Rules to which the Legislature must submit. Nay, *Wills* of fictitious Persons

Persons may be produced for carrying on such resolutely unmodifiable, and associated purposes.....But I may, perhaps, again make some short mention of these additional considerations in the sequel.

The business of such unmodifiable *Trust* is, moreover, a resolution, combination and Association, for the purpose of acting with injustice to those Persons from whom the *Executor* or Manager shall happen to receive benefits.

For instance; when goods shall have been delivered, or work and services performed, from which the *Executor* shall have reaped the benefits, the Persons having delivered such goods, or performed such services, will, of course, apply for payment or satisfaction. But the *Executor* has bound himself to answer, that he has no money or any thing to give to those Persons; that the whole property he has in his hands is *trusted* or commissioned property; that it must be strictly preserved by him; that the profits and rents arising out of such property must be strictly preserved also in Banks, and never be diminished or taken out, except it be in order to pay for fresh purchases of land. Such is the *Trust* he has been appointed to and has accepted; which *Trust* he is resolved ever to continue to execute, as he has no possible means, in any case or shape, to try to modify it, since he cannot consult with his *Employer*.

People having dealings with the *Executor* must, therefore, be put under the necessity of using uncommon caution with him, and be careful, in all cases, to have him bind himself, that is, his own person, to the discharge of those claims of any kind which they are to acquire by deliveries of goods, or performances of services. People will thus be put under the necessity of being contentiously cautious in their dealings with him: they must, moreover, study the private rules and laws of his *Trust*; their general knowledge of the public laws of the Country, relative to their own trade, being no longer sufficient. And, if they have neglected being contentiously cautious, or if the *Executor* proves personally insolvent, that is, insolvent in that property he formerly possessed, those Persons must lose their claims, though the *trusted* property has been evidently benefited

benefited by their expences or services (a). The *Executor* has bound himself to answer such Persons, that he will ever continue to collect, exact, raise and enlarge that property, and defend it against being lessened: such is the *Trust* he has accepted, which he is resolved ever to continue to execute, since he cannot possibly try to modify it.

But besides the above-mentioned instances, the *Executor* will receive benefits from numbers of Persons, in other multiplied, extensive cases, in which it will prove impossible to make him bind himself personally, beforehand, to the giving of any satisfaction.

The wide-spread lands in his possession and management, will at different times be benefited by the useful enterprises, and the persevering expensive exertions for general improvement set up by other active Individuals. New roads will by such means be opened, or old ones repaired, in the vicinity of his possessions; canals for inland navigation will be cut; manufactories of extensive utility will be established: new methods of increasing the profits of land will be sought after by tedious, laborious, expensive courses of experiments: by which enterprises, and others of a similar nature, his lands will be benefited; their very produce increased; and that produce more easily gathered, and conveyed with greater ease and dispatch to those markets where it is to be bartered and exchanged for that money which he is strictly and specially prescribed to collect. The extent of his possessions being matter of obvious notice, he will of course be applied to, for his concurrence and assistance in setting up the above-mentioned enterprises, from which he will, no doubt, be glad in time to reap benefits. But he has bound himself to answer, that he has no money to give such assistance with: he is strictly precluded by his accepted *Trust*. In process of time he will be again applied to by the Projectors of such useful enterprises, and also by other

(a) Well may an *Executor* happen to be insolvent in that property he possessed previously to the *Trust*, since a married Woman, and even a Child just born, may be appointed *Executors*, either by the Will, or by an assignment from a preceding *Executor*. The Child, in such case, *executes*, and gives his answers and resolute dismissals of claims, according to the engagement to the Testator, by means of a Guardian appointed to him for the purpose. There is certainly something curious in all this law, that is to say, in all these established, professional practices and managements.

other Persons who, having themselves given assistance and encouragement, will think they have a right to speak. Those different Persons will observe to the *Executor*, that the successes of those enterprises they had before mentioned to him, are now become evident facts; and that, though he did not think proper to give them any help at first, it is hoped he will do so now in his turn; especially as he is constantly perceived to avail himself eagerly and earnestly of their different benefits; which benefits those Persons who are speaking have hitherto procured, and are continuing to procure him, by their own expences and exertions. But the *Executor* has bound himself to answer, that he will ever continue to collect, exact, raise and enlarge the property, and defend it against being diminished; that such is the *Trust* he has engaged to execute; which he is resolved ever to continue to go on with, and cannot possibly try to modify.

Should cases of public danger arise, either from external enemies or from internal extensive commotions, the support of Parliament to the Government may, perhaps, happen to prove defective. Voluntary contributions for the sake of mutual defence will, in such circumstances, be set on foot by active Individuals. The extent of the possessions of the *Executor* being generally known, he will be applied to for his co-operation to the undertaking: but he has bound himself to answer that he has no money for such contributions. After some time being elapsed, the same Persons, either Agents from Government, or Persons who have themselves joined in the contributions, will introduce the remark to him, that, through the effect of the contributions before made, the apprehended calamities have been hitherto kept off; that his own wide-extended possessions have been protected both from the general danger, and from that particular danger to which their great extent exposed them; that it is therefore hoped, that, though he has not yet joined in any contributions, he will do so now in his turn; especially as he has been noticed to have applied, and somewhat clamorously too, for the special assistance of Government on certain late well-remembered occasions; which assistance he has actually received. But he has bound himself to answer, that he is resolved ever to continue to collect, exact, raise and enlarge the property, and defend it against
E being

being diminished; that such is his *Trust*, which he has no possible means to try to modify.

The same Persons will perhaps say something farther to him, and observe, that they think he ought the more in his turn now to assist the State by his voluntary contributions, as it appears that he does not pay a farthing on account of that heavy increased rate and additional assessment which has been lately necessitated to be laid on the former taxes paid by such Persons as keep domestic establishments: that, as to him, so far from keeping any establishment proportionate to the prodigious extent and importance of his accumulated and accumulating possessions, it turns out that he keeps no establishment at all; and that, once more, since he pays nothing to the late new additional heavy rates and assessments, nor even to the original Taxes themselves, he ought at least now to come forth with his voluntary contributions to the assistance of the Government, which protects and maintains his vast possessions, and continues to be assisted in so doing by those very Persons who are speaking to him. But he has bound himself to answer, that he is resolved ever to continue to collect, exact, raise and enlarge the property, and defend it against being diminished; having no possible means to try to modify his *Trust*.

In other common, peaceable times, a number of Persons who use liberally to pay their share of the public Taxes, will freely observe to the *Executor*, that he pays no Tax, or scarcely any Tax at all, notwithstanding he owns such prodigious accumulated possessions; that therefore he contributes nothing towards the maintaining of that public credit, and those punctual half-yearly and quarterly payments of Dividends, by which trade is eventually promoted, ready brisk markets afforded, and a brisk general circulation of money effected, by all which circumstances he is enabled readily to turn the manifold produces of his extensive possessions into plentiful sources of that money which he shews himself to be particularly anxious to collect; that he ought, therefore, were it only for the sake of good example, and in his turn, to contrive now some methods of contributing some share to those Taxes, still continuing to be wholly paid by those who are addressing him, and by others; since, from

those Taxes he derives those gainful pecuniary advantages which he continues to display by his continual progressive purchases. But he has bound himself to answer, that he ever will continue to collect, exact, raise and enlarge the property, and defend it against being diminished; that he has engaged so to do, by accepting his *Trust*; which *Trust* he is resolved ever to continue to execute, since he has no possible means to try to modify it, and he cannot consult with his *Employer*.

Voluntary subscriptions will also be set up by active worthily-inclined Persons for the establishment of Hospitals, and other charitable Institutions. The *Executor* will be applied to, like other People, for his subscription; the immensity of his possessions and concerns making it impossible he should be overlooked: but he has bound himself to answer, that he has no money for voluntary subscriptions. At some subsequent time he will be spoken to again by the same Persons who applied to him before, who have been either the first Promoters of the Subscriptions and Institutions, or liberal Subscribers to them. The increasing services procured by the Institutions will be mentioned to him. It will be observed, that the Institution is now ascertained to be greatly useful to the Community; that it has proved truly useful to him, the *Executor*, in particular, inasmuch as relief has been afforded to several Persons belonging to his extensive possessions; by which means many useful hands have been restored to him, who would have continued disabled by bodily misfortunes, or driven by severe indigence out of that part of the Country; so that he may now again go on, reaping his former usual multiplied profits from their cheap labours: that, therefore, it is hoped that, though he has not hitherto come forth with any subscription, he will do so now in his turn; especially as several instances have occurred in which he has himself advised unfortunate Persons belonging to his possessions to go and ask relief from those Institutions, now still continued to be defrayed by those very Persons who are speaking to him. But he has bound himself to answer, that he is resolved ever to continue to collect, exact, raise and enlarge the property, and defend it against being diminished; having no possible means to try to modify his *Trust*.

On some following occasion, it will be farther mentioned to the *Executor*, that he pays nothing towards the usual Poor rates established by

by Law, or at least nothing in any proportion to the immensity of his possessions: that he ought, therefore, to contribute in some voluntary shape towards the relief of the Poor, to which those Persons continue to be contributing who are speaking to him; it being matter of fact that himself has been, and still continues to be positively benefited by the Poor being preserved from too excessive calamities. But he has bound himself to answer, that he is precluded by the *Trust* which he has engaged to execute; which he cannot possibly try to modify.

A strict injunction left by the *Will* of the late Mr. Thelluffon for the *Executor* to follow, is, that he shall, without neglect or default, collect and receive the rents and profits of the Manors or Lordships, Messuages, Lands, Tenements and Hereditaments, which are devised with the *Trust*. For the effecting of this enjoined collection, the *Executor* must first demand the rents and profits from the Tenants, Farmers, and all such Persons as owe them. If they do not pay, the *Executor* must distrain, in order that the enjoined collection and reception may be effected. He must distrain the waggons loaded with corn, the horses, the cattle, the furnitures of the houses, &c. Among those Farmers and Tenants thus unmercifully pursued, some will, no doubt, make objections against the distresses. They will observe to the *Executor*, that they have benefited the lands rented by them, in certain instances, beyond what their leases or agreements required; and also that they have, by their exertions, sacrifices, and improvements of different sorts, done good to other remoter lands of the *Executor*, from which themselves reap no crops or profits: as a consequence of which allegations, they will claim from the *Executor* that he may postpone distraining. But the *Executor* has bound himself to answer, that he has, by accepting his *Trust*, engaged to collect, exact, raise and enlarge the property, and defend it against being diminished; that he is resolved ever to continue to execute that *Trust*, since he cannot possibly try to modify it, and cannot consult with his *Employer*.

In process of time, Persons having possessions in the neighbouring Country will take opportunities of speaking to the *Executor*. They will remark to him, that his inflexible methods of collecting his rents have a tendency to disturb the peace of the Country: that they who
are

are speaking to him, follow different methods, in order to preserve such peace; that they use to shew lenity to Tenants; even occasionally making them a few actual concessions. They then will add, that it turns out, that, while they are thus preserving the public peace by their own sacrifices, the *Executor* continues to reap the advantages, by his going on with his inflexible methods of collecting. But the *Executor* has bound himself to answer, that he has engaged, by his knowingly-accepted *Trust*, to collect, exact, raise and enlarge the property, and defend it against being diminished upon any account, whether on account of requital, retribution, compensation, or return, or any other account; and he is resolved to go on with that *Trust*, since he cannot possibly try to modify it.

Another injunction left to the *Executor* by the same *Will*, is, that he shall continue progressively to make purchases of land during the whole time (about eighty years) which the *Trust* is to last. By such constant pursuit after sales, the public peace cannot fail being endangered. Expensive, giddy persons, seeing money in a constant state of being offered by the *Executor*, will be put in a constant state of temptation, and induced to sell their lands; which will prove the cause of complaints and great dissatisfaction among their friends. Persons having debts to claim from Owners of land, or mortgages, will also be constantly kept in temptation by the money constantly kept offered by the *Executor*, and will become quick and unmerciful, and cause lands to be sold, and such Owners to be driven out as might have been mildly used if the tendered money, and the barterings of the *Executor*, had not constantly interfered to create mischief. Persons having before bargained for purchases of land, and being engaged in making up their money and intended prices, will be balked and deprived of their prepared bargains, by the constant readiness and constant pursuits of the *Executor*. Through the same constant readiness of the *Executor*, and his constant pursuit after purchases, other Persons will be deprived of the prospect they had long continued to cherish, of redeeming family estates, or freeholds and rights of voting, which had formerly happened to be sold.—Other Persons who, for the sake of preserving peace, had forborne purchasing such lands as lay in the above-

described circumstances, will speak to the *Executor*, and observe that the forbearance they have continued to use has considerably forwarded his purchasing exertions and successes, both by preserving public peace, and by delivering him from competition; therefore they hope, that, by way of some sort of return to them, he will show himself more moderate and considerate in future, in regard to farther purchases. But he has bound himself to answer, that he is resolved ever to go on in the very same manner as he has done before; he has engaged to collect, exact, raise and enlarge the property, and defend it against being diminished, or confined, upon any account, whether on account of requital, retribution, compensation, or return, or any other account; and he cannot possibly try to modify his *Trust*.

In short, the *Executor* of such a *Trust*, by his knowingly-accepted *Trust*, has bound himself to give the same kind of answer to all those Persons who have conferred benefits upon him, either by their exertions, or their expences, or by their forbearance to pursue their own interest in competition to him, and who claim from him some sort of satisfactory return. He has bound himself to answer, that he is precluded by his *Trust* from showing any such return; his *Trust* is to preserve the property, and keep the profits in Banks, and take them out for purchases of lands, and for nothing else, positively nothing else; in short, he has engaged to collect, exact, raise and enlarge the property, and defend it against being diminished or confined upon any account, whether on account of requital, retribution, compensation, or return, or other account: he is resolved ever to continue to execute such *Trust*, since he cannot in any case or shape try to modify it, and cannot consult with his *Employer*.

These declarations, made by the *Executor* to those Persons who claim satisfactory returns for benefits they have conferred upon him, that he is resolved ever to continue to refuse such returns, are breaches of the peace.

And his farther adding, that he is bound to act in that manner by his engagement to some other Person, or other Persons, is an actual threat: it is a threat, abetting and enforcing the above-mentioned breach of the peace.

It is a threat put upon the refused Persons, that, if they attempt to continue to offer their claims, the exertions of those other Persons with whom the illegal alledged engagement was contracted, will be turned against them; whether it be meant to speak of some preternatural power pretended to be ascribed to the *Manes* of the deceased Person who left the *Trust*, or of a set of living Adherents who continue to be combined in his name, and in the memory of him, by a bond taken to him and to one another, to propagate his *Trust* or Tenets, and enforce those modes of proceeding he has described:—no matter what Profession some of those bonded Adherents may belong to.

To sum up; the business of a *Trust* like the one above described, that is, a *Trust* resolutely accepted and undertaken to be carried on as an engaged and unmodifiable *Trust*, turns out to be an engaged course of prepared disobedience, of defiance, of call for submission, and of threat, put upon the Legislature. The call for submission is supported by the threat and display of an Association ready to abet the *call*.

In regard to Individuals, the business of the engaged and unmodifiable *Trust*, is an engaged course of dismissals of claims preferred on account of services performed. It is an engaged course of resolution never to shew any return to such claims and services, and of declarations of such resolution, that is to say, an engaged course of breaches of the peace: such resolution and declarations being, moreover, supported by the allegation and display of a strict engagement with Strangers, that is to say, by the threat and display of an Association ready to support the breaches of the peace.

It may, perhaps, be said, that no very loud public complaints have hitherto arisen among Mankind from cases of administration of property belonging to *Minors*. And are not those cases and administrations in some shape similar to the *Trusts* above mentioned?

I do not by any means admit, that the cases of the administration of the property of a Minor by his Guardian, is a similar case to the

cases of the *Trusts* above mentioned. At the same time I do not intend to attempt to point out in this place the differences between those cases. I shall, however, for the sake of argument, admit there may be some circumstances of similarity between them, and that the cases of administrations of the properties of Minors offer some appearances of previously-engaged rules, to which it is in fact expected that Strangers and Mankind in general should submit. But there are several palliating reasons, which, in the cases of Minors, have caused the management of such previously engaged rules to be tolerated or overlooked.

The first reason is, that, in those cases, no hostile intention, or hostile competition for accumulation, is displayed against Mankind.

The second reason is, that the cases of those administrations are the unavoidable consequences of a Custom which has always been approved by Mankind, namely the Custom of the descent of property to the Children, or Persons next of kin, to deceased Persons. Administrations of property in cases of non-age must needs be occasionally tolerated, since Mankind wish such Custom to be preserved.

And a third reason is, that the average length of the duration of Minorities amounts only to seven or eight years. All Minors do not begin to be Orphans, or possessed of property, when only aged one year, or two; but several begin when they are twenty, or fifteen, or twelve years of age. To which add, that it has been computed that one half of the Children that are born, die before they are full three years old; and many others die afterwards, before they actually reach the age of twenty-one. So that it is being pretty near the mark, to say, that the average length of the duration of minority administrations of property, only amounts to seven or eight years. This tolerably moderate extent of duration, in cases of minority administrations of property, together with the above-mentioned two reasons, namely the absence of hostile intention to Mankind, and the preservation of a Custom universally approved, have been the causes that have generally prevented Men from growing desperate under the sense of previously-engaged rules imposed upon them by Strangers, and has also prevented resentment, when felt, from rankling long, and becoming

becoming active. The case certainly was worse, as to duration, in those Countries and Times in which the duration of non-age used to be extended to the term of twenty-five years. The design of the Legislature of this Country, at that period when they deducted four years from the length of non-age administrations of property, reducing the farthest possible duration to twenty-one years, was very probably to shew a proper regard to the concerns and feelings of Mankind.

If very strict justice, however, were done, no minority administrations of property ought to be allowed to exist; but property should always presently go to that Person next of kin who is able presently to offer to perform duties in every case. Such great strictness being dispensed with, for the above-mentioned three considerations, it might, nevertheless, be proper to have it settled, that no Man should be allowed the privilege of disinheriting his Children, or the Persons next of kin to him, except those Persons whom he appoints in preference to them, are Persons of full age, who can administer directly. And such strictness might be still more worthy of approbation, in those cases when those Persons next of kin who are passed by for the sake of appointing remote Minors, are themselves of full age, and might have administered directly, if the usual Custom of Mankind had been observed in regard to them by the Testator. The appointing of Minors, in preference to such Persons, is, in fact, a wanton creating of non-age administration.

Abuses of a certain serious kind, and considerable public inconveniences, would be effectually prevented by matters being settled as above suggested. There is little doubt, that, if an inquiry was made into those cases in which certain Men have, in appearance quite capriciously, passed by their next of kin, who were Persons able to administer, in order to appoint remoter Minors, for instance have passed by their Sons, or Daughters, or Nephews, of full age, for the sake of appointing their Grand-Children or Grand-Nephews, or other still remoter Minors,—it would turn out that many such choices and appointments, instead of being merely the effects of caprice, were, in fact, secret, sly designs to bring about non-age administrations of the properties that happened to be left; and by that means cause

shallow ignorant schemes of accumulation to be carried on during as many years as possible, with an intent to gather and rake together a heap of property through a designing course of non-performance of duties to the rest of Mankind.

The abuse of an accumulating management, at the expence of duties, certainly takes place, more or less, in those minority administrations where there is a certain stock of property. But such accumulating managements are usually carried on in a sly manner, by the making advantage of the interest of money; which is a kind of hidden, unseen property. The Court of Chancery, by which the affairs of Minors use to be superintended, does not deal much in purchases of land and showy conspicuous possessions. The attention, or assumed office of the Court of Chancery, in regard to the affairs of Minors, is very proper, as far as it is intended to prevent dilapidation being effected by Guardians and such like Managers: but when the assistance of that Court is made instrumental to managements of accumulation, it becomes a process of real injustice to Mankind, and very bad example too, in numerous respects. Before much time elapses, the abuses here mentioned will no doubt be somehow prevented from being continued.

Minors, after all, have no true right to having that property preserved for them which they cannot administer, so as to be delivered to them after a course of six, or ten, or twenty years, when they can. The delivering of the property to them after such a suspense and lapse of time is absolutely a free gift from the Community. It is therefore enough, and much more than is due, when that property is delivered to them undiminished from what it amounted to, when first left; and there is no occasion that all the rents, issues and profits of this property, and of all those successive issues and profits themselves, should be rigidly set apart, in order to enable the Minor, when become of age, to insult his equals, and exhibit a mortifying sight to industry, by the display of a heap of property gathered and inflated through a long designing course of non-performance of duties.

It may be additionally observed, that non-age administrations of property are a kind of Trade in which *no risk* is run: which bare circumstance is sufficient to make them excellent Trades, as all
pro-

professional Traders can tell. A long continued state of Minority, where there is some tolerable stock of property to make a beginning with, is, taking all together, the best Trade that exists. If it were possible to inquire into facts, it would, perhaps, appear that the greatest estates in this Country have been originally raised by non-age administrations, or administrations in cases of idiotism or lunacy. And where helpless non-age, and cases of idiotism and lunacy, prove the surest and most plentiful roads to fortune, it cannot be said that matters are administered in any very excellent way: laudable exertion and industry cannot be said to be encouraged in any very masterly manner.

Since the custom of property descending to Children and Persons next of kin continues to be approved by Mankind, let property continue, without opposition, to descend to such Persons, even though they may be Minors. But let no accumulating course, scheme, trade or contrivance be permitted. Let the bare property, at that degree it amounted to when first left, be preserved for Minors, and delivered to them when come of age; upon their giving thanks in a set, stipulated form of words, expressing that they receive such property preserved for them notwithstanding their long previous course of helplessness, as a gift from the Public. In regard to the profits of any kind that may continue to issue and be collected from this property, they should be appropriated to some public use. I do not say, they should be sent to the Sinking Fund; because the usefulness of a National Debt, and of a Sinking Fund by which such Debt is facilitated, is a question about which Men do not agree: but those collected profits should be added to the Poor-rates, either in order to increase the amount of the present rates, or be employed towards the easing of these rates, as will be advised to be best by Persons acquainted with the subject. Or some new Institution of National charity and relief might be formed.

Be it as it may, I shall conclude the subject of non-age administrations of property, with repeating what has been above alledged, namely, that the inconveniences arising to Strangers and to Mankind in general from such previously-engaged rules and administrations, have been smoothed, First, by the non-appearance of any hostile design

or competition against other Men. II. The preservation of the approved custom of property descending to the Children of deceased Persons has occurred to Men's minds, as a farther palliation. III. The longest possible duration of non-age administrations, being limited to twenty-one years, instead of twenty-five, by which the average length of duration becomes reduced to seven or eight years, has been a third additional consideration and cause that has prevented Strangers from growing at any time vehement in their resentments.

In the cases of Ideots and Lunatics, besides the non-appearance of every kind of design hostile to the rest of Mankind, the consideration offers itself concerning the real difficulty which there is indecisively disposing of the properties of such Persons. Ideots and Lunatics are seldom long-lived Persons. Afflictions of that kind are not common: and, in general, every kind of human resentment that may be felt, drops in the melancholy contemplation of the case.

Whenever a Regulation shall happen to be made, for appropriating the profits arising from the properties of Minors to the Poor-rates or other National charitable Institution, the profits arising from the properties of Ideots and Lunatics will, of course, be appropriated in the same manner, as far as circumstances will admit.

All these Regulations will, no doubt, be made whenever the Legislature shall be induced to take notice of the sly, designing Schemes of accumulation carried on under the cover of the above-mentioned cases.

By way of resigning the subject of the above digression, and returning to the subject of those *Trusts* described in former pages, I shall repeat what has been observed in those former pages; which is, That the business of such *Trusts* is a course of prepared disobedience, defiance, call for submission, and threat, put upon the Legislature (see page 19). It is, moreover, a course of resolution never to shew any return for services performed by other Individuals, and of declaration of such resolution, abetted by threats.—And the intent of the unmodifiable

previously engaged or bonded course of proceeding, is, in the case of the *Trust* left by the Mr. Peter Thelluffon, confessedly to collect, exact, raise and enlarge the *trusted* Property, and ever defend it against being diminished from its present increased state, and also against being confined from being farther increased: this plainly-appearing intent of the scheme and business makes it scarcely possible that the case of such a scheme might be slighted or despised.

It may be observed that that *Trust* just mentioned is conjoined with other additional circumstances of such a nature as make it still less possible that the case of such a scheme and business might be slighted or despised.

In the first place, the business of the *Trust* is entered upon, in the very first instance and outset, with a beginning stock of property which, in lands and money together, has been ascertained to amount to more than seven hundred thousand pounds. The scheme being entered upon with such substantial means, the effect must be, that the bad example of the defiance, and the threatening authoritative call for submission, which are to continue to be put upon the Legislature throughout the continued business of the *Trust*, must become a very conspicuous bad example, and a subject of general observation; which must needs prove highly injurious to the credit of the Legislature.

Nor is this all: the whole of this great property is to be realized into landed property by purchases. To which add, that those lands so purchased, are to have afterwards other lands continually added and united to them, by means of succeeding progressive purchases, continued to be successively made with the whole of the progressively increasing masses of the rents and profits of all the lands progressively purchased and united before. And, as the scheme of these progressive purchases is to be carried on during a space of eighty, or perhaps a hundred years, or more, it must follow, that the extent of the progressively *united* lands will, at length, prove equal to several English Counties. Out of this extent the authority of the British Legislature will be excluded by the superior efficiency and authority of the unmodifiable *Trust*. A distinct Administration will, of course, be formed within the compass of that extent; which Administration

will be on a different establishment from those of the Counties Palatine of Chester, Lancaster, and Durham, and the Stannaries of Cornwall, inasmuch as the authority of the Legislature will have no access to the Department; being excluded, as just said, by the superior efficiency and authority of the *Trust*. That Administration will be in the nature of an American Congress (as it stands at present), in the middle of Great Britain; with this difference too, that as the Managers of the *Trust* will have engrossed the rights of voting for the Counties and for the Boroughs purchased by them, they will be able to influence the measures of the British Legislature:—which they will continue to do till such time as it will suit them entirely to give up that part of the scheme, and to become wholly unconnected as well as independent.

Other ambitious *Schemers* will also be induced, by the brilliancy of the Undertaking, to set up similar powerful *Trusts* and *land-uniting* Managements; by means of which the British Legislature will be turned out of other English Counties, in the same manner and upon the same plan as just described.

Nay, with scarcely any property at all to begin with, scheming Politicians will contrive such ingenious rules and unmodifiable *Trusts* as will dispossess the British Legislature of its authority, in a manner incomparably quicker than will be effected by the scheme and *Trust* thought of by the late Mr. Peter Thellusson. And, as hath been observed in a former page, *Wills* of fictitious Persons may also be produced, establishing unmodifiable *Trusts* and Rules of that ingenious, efficient, dispatchful, political nature which is here mentioned, without any eminent Politician being dead, or obliged to hide himself, for all that.

Through the quick political efficiency of such unmodifiable Rules and *Trusts*, the British Legislature will be in time wholly dispossessed and made useless; and nobody will pity them. It will be said, that it was much their fault ever to suffer unmodifiable Rules and *Trusts* to take place in the Country,—that is to say, Rules and *Trusts* which were entered upon with positive engagements to pursue them as unmodifiable Rules,—that is to say, as being Rules which
certain

certain sets of Associates and Adherents were engaging to pursue, by bonds taken to one another, and to certain particular deceased Men or *Beings* with whom they professed, and admitted, that it was ever to be out of their power to consult.

The British Legislature will be the less pitied, as it will be farther observed, that the laying of *unmodifiable* Rules is a kind of high authority which they have never so much as attempted to attribute to themselves. They even are frequently so cautious as expressly to provide and stipulate, that their Bills may be modified during the very same Session in which they are passed. In all cases, Bills may be modified in the very next Session after, either through proposals set up in that very House where such Bills had originated, or in the other House; or also such proposals may be introduced through Petitions presented by common Subjects.

Eastern Sovereigns, indeed, lay claim to the power of *unmodifiableness*; which is, perhaps, a consequence of some peculiar difficulty or embarrassment in their situation. Their Vizirs or Ministers, in fact, are used to say, that the orders of the Sovereign are unmodifiable; that they can no more be recalled, than the *sweat which has once issued out of the human body, can get back into it*. But this frequently turns out to be only a mere pretence. The orders are often recalled or modified. Or, it also sometimes happens that those Sovereigns who quite obstinately strive to make good their claim to *unmodifiableness*, are surpris'd and strangled during the night.

Eastern Subjects, submissive as they may be, will not always give way to *unmodifiableness*.

There is another additional circumstance conjoined with the *Trust*, which also makes it scarcely possible that the case of such a scheme might be slighted or despis'd.

An additional, conjoined design of hostile competition and accumulation is generally displayed against Mankind, in the scheme: it is expressly professed. The *Use* positively enjoined to be made of those issues and profits of the *trusted* Property which are to continue to be resolutely snatched from the performance of duties, is, more-
over,

over, that they shall be wholly and strictly laid out in purchases of farther and increasing property. This additional and progressively-purchased Property must moreover be lands, conspicuous lands: and those lands too must be mostly freeholds, or three times in extent more than copyholds. So that, besides the intrinsic influence, and the open conspicuousness of the Property, political power is additionally grasped at, and direct means of dictating to Mankind expressly aimed at being seized. Mankind are positively called upon to bow and give way to a Power raised by their own forbearance; that is to say, their forbearance under a series of breaches of the peace committed against them; their forbearance under a series of resolute dismissals of their claims preferred on account of benefits conferred: such series of breaches of the peace being abetted by a continued threat and display of hostile engagements taken with Strangers, among themselves.—This is expecting too much from human forbearance. Wide-extended strife and contention must be the consequence. It is scarcely possible that the case of such a scheme might be slighted or despised.

There is another peculiar, conjoined circumstance, attending the case of the scheme, which also makes it scarcely possible that the same might be slighted or despised; and that is, the nature of the Property, the profits of which are to be collected. That Property is wholly to consist of landed possessions. Now, every one knows that the business of collecting the rents and profits of landed possessions is a business which, barely in itself, and without the additional interference of any dangerous circumstance, is constantly liable to the danger of strife and contention. Farmers are not always very punctual in bringing forth, and surrendering to a gathering Landlord, those sums of money which they have been able to procure through considerable toil and anxiety. The Landlord will nevertheless have his due; and in case of failure, his only resource lies in the process of *distraint*; a process which, though allowed him by the Law, is often disputed, and even encountered by resistance. The Landlord is allowed by the Law to distrain carts and waggons full of corn or grain; horses laden with sheaves; cocks or sheaves of corn in any barn; hay in any stack or rick; cattle of the plough, when no other

other sufficient distresses besides; any cattle or stock feeding on any common any way appendant on the landed property; all sorts of corn and grafs, hops, fruits, pulse, or other product lying on any part of the estate. These distraining processes, though established by Law, are often opposed, as above observed, even with forcible resistance. Such resistance happens to be opposed, either in the first instance, when the *distress* is first attempted, or afterwards, by forcibly taking and removing the distrained goods from the places of safety where they had been lodged, or driving away the distrained cattle from the pounds in which it had been impounded. Tenaciousness of property often induces Men to such acts of resistance; and mere pride often happens to be a sufficient cause. What must the events of such contentions prove, when those Persons whose property shall be attacked by the distraining processes, shall additionally support themselves in their resistance by the allegations that they have hitherto paid the *Executor's Taxes* for him, which he makes it a constant practice never to pay, and have moreover conferred other important benefits upon him, which he not only has to that day sily passed by, but has even openly declared to them that he was resolved never to return, additionally abetting the declaration and breach of the peace with the threat of an engagement entered into by him with Strangers for the support of the peace-breaking resolution and declaration!—It is scarcely possible that the case of a scheme clearly leading to such contentions might be slighted or despised.

The above dangerous repulsive charge against the *Executor*, and dangerous arising contentions, must, besides, become presently extended much beyond the compass of his wide possessions. Remote Tenants, Farmers, and other Inhabitants, will actually be forced into the contests through the extended legal pursuits of the *distraining* processes,—besides the effects of sympathy. The *Executor* is allowed by law to pursue the goods, chattels, and stocks of his Tenants, if they have been retaken by *rescous* or *pound-breach*, and also if they have been merely removed in order to prevent distress. The *Executor* may, in day time, break open any distant strange house,
I
stable,

stable, barn, or close, in which the said goods and stocks are suspected of being lodged. Those distant Persons, thus forcibly involved in the distraining processes, will not fail to join in the above-mentioned dangerous repulsive charge against the *Executor*, and dangerous arising contentions. These contentions will thus be accelerated, multiplied in every spot, and extended to remoter spots, by the peculiar litigious nature of the kind of property which is aimed at by the scheme: so that, once more, it is scarcely possible that the case of such a scheme might be slighted or despised.

It may be observed that there are other circumstances of peculiar litigiousness in the trusted Property, besides those above mentioned; by which additional circumstances the same dangerous repulsive charge against the *Executor*, namely, his being himself an Offender and constant peace-breaker, and the dangerous arising contentions, will likewise be accelerated, multiplied, and farther extended. These additional circumstances of litigiousness in the *trusted* Property, are, that this Property is not solely composed of Farms and Tenements in the direct possession of the *Executor*: but *Lordships* and *Manors* are also mentioned in the *Will* by which the scheme is created. The profits arising out of these increasing Lordships and Manors are to be collected by the *Executor* without neglect or default, as he has bound himself to do. The litigiousness attending the exaction of these profits is well known, as well as the extensiveness of the lands over which, and the numbers of Persons from whom, they are usually demanded. They consist of rights of *Reliefs*; which is a composition paid by Owners of certain lands, formerly *Bondsmen*, for leave from the Lord of the *Manor* for them to take possession of inherited lands:—rights of *Estrays*; by which cattle, and tame animals which have strayed into a *Manor*, and not claimed within a year and a day, become the property of the Lord:—rights to *Heriot services*; by which the Lord of the *Manor* can seize the best beast, or best piece of plate, to his liking, that has belonged to a deceased Man subject to such service; which word comes from a Saxon word, signifying an *armed force*, or a right established by force. Certain rights of *Jurisdiction* also constitute some

of the profits of Manors; such as *Courts Baron*, held for taking cognizance of debts, and also of certain public trespasses committed within the Manor;—and also *Courts Lect*, for all cases of public trespasses committed within the Hundred: the Jurisdiction of these *Courts* belongs of course to the King; but the Lord of the Manor is entitled to the profits, consisting of the *essoign perice*, *finer*, and *amerciaments*.—Tythes, in cases of *Lay-Impropriations*, also belong to Lords of Manors: it being reckoned that there are 3845 Cases of such *Impropriations* in England. Exclusive rights to *Mills*, to *Markets*, to *Fairs*, and also to *fishing* in rivers which do not ebb and flow, are other kinds of profits usually belonging to Manors, &c. &c.

All these kinds of profits and duties are generally paid with considerable reluctance, though in the fairest cases: even the collection of tythes by Clergymen is sometimes opposed with remarkable spleen. What repulses must be expected to be opposed to the law-proceedings of the *Executor*, and what contentions with him, when he shall come to collect duties of the kind here described from his multiplied Lordships and Manors, being at the same time liable to the dangerous repulsive charge above mentioned!

The same *Executor* has undertaken to raise and enlarge the *trusted* Property, and, moreover, so to raise and enlarge it by means of purchases of land. Now, this will prove another fruitful cause of opposition to the law-proceedings of the *Executor*, and dangerous contentions with him. Purchases of landed property are almost always, from different causes, attended with litigious difficulty. If Men happen, for instance, to be driven by misfortunes and forced sales out of landed property, they feel uncommon, bitter resentment, and even temptation to disturb the sales either before or afterwards. Sometimes also purchases of land are opposed by other Men, from mere jealousy; at other times, from the circumstances of their having bargained before for the same lands; and at others, from their having for a long time kept the same Property in view, on account of some peculiar affection to the lands, or of having formerly been in possession of them. If rights of freehold and of voting happen to be connected with the purchases, the competitions prove still fiercer.

fiercer. The vehement activity of such kind of spirit and competition is evinced by the fact of the quarrel that took place a few years ago between the Bishop of Bangor and a subordinate Officer, and the prosecution for an assault that was carried on against the Bishop. Purchases of landed Property, even in the fairest circumstances, must always be carried on with circumspection, and even wariness. What must be the consequence, what oppositions, what contentions, when an *Executor* shall come forth as a declared, resolute Engrosser of whole Counties, at the same time asserting to have bound himself unceasingly to pursue purchases of land, three parts of which must be freehold too, without any mitigation or stoppage of his pursuit on any account whatever, whether it be on account of requital, return or compensation for benefits received, or any other account; farther putting forth the allegation and threat of an engagement entered into by him with Strangers to pursue such course of proceedings! Once more, it is scarcely possible that the case of a scheme clearly leading to such contentions might be slighted or despised.

To sum up; forcible oppositions must arise against such an *Executor* from numberless quarters, on many very dangerous accounts; and oppositions of powerful kinds too. The *Executor* of such asserted *Trust*, scheme and engagement, will be forcibly and powerfully opposed in his operations for raising and enlarging the *trusted* Property, and his progressive purchases of lands. He will also be forcibly and powerfully opposed in his operations for collecting and exacting the profits of that Property; in his operations for seizing, distraining, and impounding.—His Opponents will strive to impound the *Executor* himself, as a *damage feasant* Invader of the worst kind, and a constant breaker of the peace.

It would be fortunate if forcible Opponents, after impounding a collecting, exacting, and purchasing *Executor* coming forth with such professed and asserted *Trust* and scheme, were to rest satisfied with that success: but, after running down the law proceedings, *distrainings*, and other processes of the *Executor*, they would not fail to pursue other more extensive advantages.

Should

Should other *Executors* of similar engaged *Trusts*, and other Adherents, come to the assistance of the above-mentioned first-rate *Executor*, they would be all impounded likewise; and riot and confusion would become the more widely and dangerously extended.

Attempts to support *Trusts* and schemes of that kind against forcible opposition by an outward display of superior law authority, and pretences of preserving public Order, would only increase the mischief. Violent opponents to such Schemes only become the more exasperated, and take to the more violent steps, when they find them protected by a show of legal proceedings, or a pretence of rank and dignity. It is hardly possible to think that that vehement personal insult and assault which was put upon the late Duke of Bedford on the course at Litchfield, might proceed from any quarrel about the race: it was most likely owing to some former deeply-entertained grudge relative to some measures of aggrandisement in respect to landed property or other respects, which had been loftily pursued by the Duke with that *unmodifiableness*, both as to *retention* and as to *pursuit*, with which he is reported to have been peculiarly gifted.

Judge, afterwards Chancellor, Jeffries, who had carried on his oppressive measures under a display of legal proceedings, was abused, after his fall, with a degree of insult, asperity and violence, which is scarcely ever practised with Great Men cast down by Revolutions. A fact somewhat remarkable may be mentioned here, which was inserted in the news-papers some years ago; which was, that a certain family of rank having a few days before happened to pass, in their way to London, through a small Town in the West of England, were assaulted and obliged to fly with precipitation, owing to a report that was raised, that they were lineal Descendants of Judge Jeffries: which report was in fact true, and was started against them by Descendants of families who had suffered from the proceedings of the Judge in his famous *Circuit* through that part of the Country.

It may be farther observed, that attempts to put forth, and push such unmodifiable *Trusts* and schemes as are here alluded to, are *Cases* which it is scarcely possible might be slighted or despised in these present times, when *Agrarian Laws* begin to be talked of among Mankind, and the present general System of property, though

in itself, perhaps, not very exceptionable, begins to be openly complained of as being too tight and unmodifiable.

Another remark might be introduced; which is, that, should unmodifiable *Trusts* for the purpose of accumulation and aggrandisement become to be more generally imitated, especially upon grand scales, the weight of the Court of Chancery might become very great, no doubt, by that Court being thus made the *Repository* of a most prodigious mass of property: but that weight and influence might not perhaps be likely to last long. A jealousy might be raised against that Court, similar to that which was entertained on the Continent against the late *Order* of the Jesuits, who, by skilful methods, had succeeded in becoming Depositories of the properties of private families to a vast amount, as was said.—I shall not however discuss such question any farther: the definitions which have been given of *unmodifiable Trusts* in the preceding pages, make perhaps such farther discussion unnecessary.

The late Mr. Peter Thelluffon, by way of indemnity to the Community, has bequeathed to the National Sinking Fund an eventual chance of obtaining the whole of the Property that shall happen to lie accumulated at the expiration of that long course of years during which the accumulating management is enjoined by his *Will* to be carried on,—in case, at that period, there happens to be no living Person issued from those Persons of his family who were living at the time of his decease (July 1797); which persons must all be dead before the accumulating management ceases. Some of the last-mentioned living Persons were very young at the time of the Testator's decease; others were just born; and others have been since born at such a distance in point of time as to make them deemed to have been then living.

But, what bribe, what indemnity can be offered to the Legislature, to make them consent to their own annihilation? What bribe, what indemnity can be offered to the Legislature, that can make them knowingly and expressly give their consent to the establishment of a previously-engaged course of prepared disobedience, of defiance, of call for submission, and of threats put upon them; such call for submission being supported by the display of an Association engaged and ready to abet the *Call!*—(See before, pages 18, 19.)

What

What bribe can induce them expressly to consent to the establishment of a previously-engaged course of resolution never to shew any return on account of benefits received, and of declarations of such resolution ; that is to say, an engaged course of breaches of the peace ; and of threats too, by the allegation and display of an engagement and association with Strangers, asserted to be ready to support the breaches of the peace ! (See before, pages 18, 19.)

I shall most certainly not go into the subject of the uncertainty of that above-mentioned bequest which is made to the Sinking Fund. Though, in fact, I might observe, if I chose, that it is only a very small chance that is bequeathed. That chance is grounded on the possibility of a great number of Persons dying, every one of them, without issue. The question of the chance moreover depends on the chastity of Women at distant periods. Besides, have not *warming-pans* been used for the purpose of secretly conveying lately-born infants and *Heirs* into the beds of barren Women ? It was reported to have been done so in respect to the Queen of James the Second. Considerations of an ambitious or political nature, introduced with great *eloquence*, may also be made use of to bring over Women to consent to engage into a state of pregnancy ; as was reported to have been the case with Ann of Austria, when, after being during a very long course of years childless, she became pregnant, by some means or other, of Lewis the Fourteenth. The dangers which from all the above-mentioned considerations might arise against that eventual chance which is held forth to the Legislature, would perhaps be but badly obviated by resorting to the expedient which used to be adopted in the times of the Roman Jurisconsults, namely, the appointing of Watchers or Keepers, under the name of *Custodes Ventris*, to Women, when there was a possibility, in important cases, of their producing forth posthumous Children.

However, I shall not meddle at all with the subject of the very great doubtfulness of the chance which is bequeathed to the National Sinking Fund. I shall even admit that it is a most excellent chance ; nay, and a sure chance too. I shall even go so far as to grant, that the whole money, the seventy or eighty millions sterling to which it is supposed the accumulated money will amount, are actually ready, and

and are offered to be paid in advance to-morrow, or this evening, into the Sinking Fund.—Even in such case I say, how can the Legislature be induced to accept a bribe for submitting to their own annihilation? How can they accept a bribe for substituting constant, designed, and pursued breaches of the peace, to friendly intercourse and dealings among Mankind?

Besides, how can distant Generations and their Sinking Funds be any how expected to be benefited, if the present Order of things is subverted, and matters set topsy-turvy, long before their periods? However, these distant considerations are another subject into which I do not mean to engage.

I shall mention, before I conclude, that the Persons of the present living Issue of the late Mr. Peter Thelluffon have, it seems, taken steps before the Court of Chancery, for preventing the *Will* here alluded to, from being observed; and these steps are opposed and contradicted by the *Executors* named in the *Will*, and by his Majesty's Attorney General in respect of the bequest to his Majesty for the use of the Sinking Fund of the Monies to arise, &c. who are Claimants for the affirmation of the *Will*.

I shall also mention that the late Dr. Benjamin Franklin has by his *Will* left a *Trust* for the purpose of establishing a management of accumulation, which is to continue to be carried on during, I believe, the term of an hundred years, by means of a certain sum of money bequeathed and appropriated by him to that purpose. The sum of money which shall finally appear to lie accumulated at the end of the above period, is to be laid out in establishing some particular Institution, a public School, or such like purpose. The adoption of the idea of settling an accumulating management by means of a *Trust*, does no very great credit to the Doctor's memory, especially as he was not by any means entitled to the honor of the invention. However, I do not intend to inquire into the particulars of his *Trust*.

I shall conclude by generally observing and repeating, that the businesses of such *Trusts* and managements are actually demonstrated to be engaged courses of proceedings by which the authority of the Legislature is dictatorily annihilated; and constant, designed, and pursued breaches of the peace are moreover substituted by these *Trusts* to friendly intercourse and dealings among Mankind.

Executors