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DR. JOHNSON ON THE LAW AND LAWYERS

“The subject of quotation being introduced, Mr. Wilkes censured it as pedantry. Johnson. ‘No, Sir, it is a good thing; there is a community of mind in it. Classical quotation is the *parole* of literary men all over the world.’”

Boswell’s *Johnson*.

“I should like to have been Shakespeare’s bootblack—just to have lived in his house, just to have worshipped him—to have run on his errands, and seen that sweet serene face. I should like, as a young man, to have lived on Fielding’s staircase in the Temple, and after helping him up to bed perhaps, and opening his door with his latchkey, to have shaken hands with him in the morning, and heard him talk and crack jokes over his breakfast and his mug of small beer. Who would not give something to pass the night at the club with Johnson, and Goldsmith, and James Boswell, Esq., of Auchinleck?”

Thus spoke Thackeray. I ask who would not give everything to be able to say truthfully that he had listened in at the great table over which Johnson presided. Shakespeare as a man may or may not have been personable; we know so little about him. Fielding is not to go unappreciated. But Johnson is with us, is one of us. If he were to walk into our home tonight, we would know him and feel at ease in caring for him as our guest. Subconsciously, we would offer him the master chair. Intuitively, we would recognize his voice. Probably, we would disagree with him. Certainly, we would love him.

Macaulay says that if Boswell were not a great fool, he would not have been a great writer. This is hardly a fair statement of the Doctor’s biographer. It is due almost en-

tirely to Boswell that we know Johnson so well. When literary genius gets a hearing, and the roll-call of man's great efforts is taken Boswell will be given a place with Homer and Dante, Cellini Cervantes. Macaulay says that Boswell was servile and impertinent, shallow and pedantic, a bigot and a sot. Boswell's vices may have been great but his virtues were much greater. He admired great men and made their acquaintance. He loved to be in their company and in doing so he chose the better part. He was a companion of Wilkes and the loyal friend of Paoli. He traveled to the Continent that he might know Rousseau and talk with Voltaire. The roster of the Literary Club contained names like Burke and Goldsmith, Reynolds and Garrick, and Boswell was a member of the Club. He was a lawyer of recognized ability and a writer with an unusual simplicity of style. His monumental biography will forever precede the sophisticated and often inaccurate essays of his bitter critic. He almost alone has preserved the conversations of the greatest of all conversationalists. Sometimes I wonder if Johnson made Boswell or Boswell made Johnson.

Where in all history do we find another group of men such as that which tramped London's Soho in the eighteenth century? Lovable men, capable men, philosophers of life, geniuses. The world was perhaps no kindlier to them than it is to us, but it seems to have been. King George's time was as distressing as Herbert Hoover's. Economic, social and political problems were as critical then as they are now. The revolutions of the eighteenth century were just as serious and important as those of the twentieth. Yet, throughout it all, the members of the Literary Club do not seem to have lost their sense of values. Money was as scarce with them as it is with us but that apparently did not worry them. They detached themselves from life and viewed everything with a philosophical perspective. They

had wealth, but it was a wealth of intellect, not of material goods. They worked not to accumulate money but to have leisure for cultural improvement and social intercourse. Doctor Johnson once said: "John Wesley's conversation is good, but he is never at leisure. He is always obliged to go at a certain hour. This is very disagreeable to a man who loves to fold his legs and have out his talk, as I do." Incidentally, the Club lost a few of its members because they were too leisurely in getting home. Domestic discipline has not changed much in two hundred years.

With Wilkes the publisher and erstwhile member of parliament, Reynolds, the patron of arts, Garrick, the actor, Burke, the master of political science, Goldsmith, the gentle genius of all forms of letters, Langton, the student of Greek, Beauclerk, the intellectual rake and Johnson the lexicographer often in company it is not surprising that the entire range of human knowledge was sounded and every subject of human interest dissected by them. Every type of man and every point of view was there. Naturally Johnson predominated their discussions. "There is no arguing with Johnson" says Goldsmith; "for when his pistol misses fire, he knocks you down with the butt end of it." And it is doubtless true that when the Doctor was losing an argument on its merits, he resorted to mean personalities and his booming voice for victory.

So seldom were the tables turned on Johnson that I cannot forbear mentioning an incident when poor Nol put home a thrust. Goldsmith was discussing the difficulty of writing fables and of having the animals talk in character. "For instance," said he, "the fable of the little fishes, who saw birds fly over their heads, and envying them, petitioned Juniper to be changed into birds. The skill consists in making them talk like little fishes." As he was thus musing, he

observed Johnson shaking with laughter and thereupon remarked, "Why Doctor Johnson, this is not so easy as you would seem to think; for if you were to make little fishes talk, they would talk like whales." We doubly appreciate Goldsmith's observation when we recall that the dictionary writer defined "network" as anything reticulated or decussated, at equal distances with interstices between the intersections.

Johnson's leadership of a club with such a membership, however, was not accidental any more than his influence upon the field of English literature has been pure chance. The unusual fact that he is so little read today and yet so well known is explained only by his most lovable and forceful personality. He was intensely human; he loved and hated; he possessed prejudices which would have become a bigot, yet he practiced a charity which would have drawn the praises of St. Vincent de Paul. The paternal and unselfish manner in which he guarded and looked after Goldsmith is well known. The patience and care he gave to the polyglot assortment who lived under his roof is almost unbelievable.

After his wife died he gradually accumulated a queer menagerie of human derelicts. Among them were his blind house-keeper, Mrs. Williams, an impoverished Mrs. Desmoulins and her daughter, friends of the family for many years, another destitute woman by the name of Polly Carmichael, Levett, an old quack doctor and Frank, a negro servant. These mendicants constantly quarreled among themselves and frequently with their host. Often the Doctor would repair to the tavern for relief from the din. Little wonder is it that he once said that there is nothing which has yet been contrived by man by which so much happiness is produced as by a good inn. For many years Johnson put up with this torment and fed these beggars out of his

modest income. They complained about the food which he provided, and yet the man who knocked down Osborne for a questionable insult and defied Lord Chesterfield for tardy recognition persisted in his charitable work with astounding humility.

I like to talk about some of the antics in which this unusual man engaged. For instance, a particular place might annoy him and he would take the most circuitous route to avoid it. If he were of a mind he would touch every post along a certain street. Should he miss one he would retrace his steps for a hundred yards that the ceremony might be perfectly performed. Washington Irving tells of an incident which is an index to his character along these lines. Beauclerk, that lover of folly and scorner of fools, and Langton were spending the night together and decided about three o'clock in the morning to call upon Johnson.

After his house was about shaken down, the night-shirted sage emerged with a poker in his hand. When his two young friends invited him for a walk, he accepted. They rambled into Covent Garden, visited with the hucksters who were coming to market, went to a convenient tavern where Johnson brewed a bowl of his favorite beverage for them, and spent the rest of the day skylarking. The whole episode was the talk of the Club for some time. Garrick chided the Doctor for his frolic but Johnson only laughed and said: "You durst not do such a thing, your wife wouldn't let you."

Dr. Johnson's Dictionary won immediate recognition. It was the product of many years' labor and the work of a scholar. In this book, however, Johnson the man could not be completely submerged by Johnson the pedant. Here and there we find a definition which must have given the Doctor many a chuckle and much satisfaction. For instance, he states that a pension is "an allowance made to any one without an equivalent. In England it is generally un-

derstood to mean pay given to a state hireling for treason to his country." It may be safely assumed that when Johnson wrote thus he had not yet become a favorite of the King. He has this to say about oats: "A grain which in England is generally given to horses, but in Scotland supports the people." Even Scotch whiskey was distasteful to Johnson. Lord Elibank upon reading the definition remarked: "Very true, and where will you find such men and such horses."

The Doctor defined excise as "a hateful tax levied upon commodities and adjudged not by the common judges of property, but wretches hired by those to whom excise is paid." Were he living today, merchants' organizations would certainly seek to employ him. It is hardly likely that Johnson would join up with Judge Landis, Will Hays, Mabel Willebrandt, *et al.* And yet he did take a pension after he had defined a pensioner as "one who is supported by an allowance paid at the will of another; a dependent."

Johnson was not a lawyer although he once sought admission to the bar. He was almost thirty when he decided to flee from authorship and to try the law. He wrote at the time: "I am a total stranger to these studies, but whatever is a profession, and maintains numbers, must be within the reach of common ability, and some degree of industry." Johnson's application was refused because he did not have a degree. Boswell thought that the Doctor would have made a distinguished figure as a lawyer. The chances are that Johnson the counselor would have been just as imperious and impecunious as Johnson the critic and that had the Doctor been admitted literature would have lost immeasurably more than the law would have gained.

Johnson, however, discussed the law and its servants many times. Boswell was a lawyer and it is only natural that he should have recorded with particular interest anything which the Doctor had to say with reference to *res juris*.

Johnson's opinions are always interesting although sometimes his reasoning is fallacious and his conclusions are erroneous. His insight into the profession of the law was unusually deep. Some of his observations may not be consonant with the canons of legal ethics but nearly everything he had to say is just as timely as though said today.

When Boswell and Johnson were visiting Oxford the subject of the former's trying his fortune at the English bar came up and Boswell asked whether a very extensive acquaintance in London which was very valuable, and of great advantage to a man at large, might not be prejudicial to a lawyer, by preventing him from giving sufficient attention to his business.

The Doctor replied: "Sir, you will attend to business, as business lays hold of you. When not actually employed, you may see your friends as much as you do now. You may dine at a Club every day, and sup with one of the members every night; and you may be as much at publick places as one who has seen them all would wish to be. But you must take care to attend constantly in Westminster-Hall; both to mind your business as it is almost all learnt there (for nobody reads now), and to shew that you want to have business. And you must not be too often at Publick places, that competitors may not have it to say, 'He is always at the Playhouse or at Ranelagh, and never to be found at his chambers.' And, Sir, there must be a kind of solemnity in the manner of a professional man. I have nothing particular to say to you on the subject. All this I should say to any one; I should have said it to Lord Thurlow twenty years ago."

It seems that Boswell for many years entertained the idea of practicing law in England. Some years before the preceding incident, Boswell sought Johnson's opinion as to his, Boswell's chances for success in London. The Doctor advised: "You must not indulge too sanguine hopes, should

you be called to our bar. I was told, by a very sensible lawyer, that there are a great many chances against any man's success in the profession of the law; the candidates are so numerous, and those who get large practice so few. He said, it was by no means true that a man of good parts and application is sure of having business, though he, indeed, allowed that if such a man could but appear in a few causes his merit would be known, and he would get forward; but that, the great risk was, that a man might pass half a life-time in the Courts, and never have an opportunity of shewing his abilities."

Boswell once said that he had been advised against being a lawyer because he should be excelled by plodding block-heads and Johnson took exception, saying: "Why, Sir, in the formulary and statutory part of law, a plodding block-head may excel; but in the ingenious and rational part of it a plodding block-head can never excel."

The delicate question of a lawyer's seeking business came up for notice by the Doctor and his biographer. Boswell "suggested a doubt of the justice of the general opinion, that it is improper for a lawyer to solicit employment." He mentioned that a certain prominent lawyer when first making his way had not hesitated to obtain business by solicitation and thereupon the following conversation took place:

Johnson: "Sir, it is wrong to stir up law-suits; but when once it is certain that a law-suit is to go on, there is nothing wrong in a lawyer's endeavoring that he shall have the benefit, rather than another."

Boswell: "You would not solicit employment, Sir, if you were a lawyer."

Johnson: "No, Sir, but not because I should think it wrong but because I should disdain it. However, I would not have a lawyer to be wanting to himself in using fair means. I would have him to inject a little hint now and then, to prevent his being overlooked."

The Doctor's opinion in the premises may conflict with the canons of professional ethics as laid down by the American Bar Association, but I feel that many a lawyer of good repute has done just what Johnson would have him do.

The integrity of lawyers has had a question mark behind it since lawyers and question marks have been known. Boswell asked the Doctor whether the practice of the law in some degree hurt the nice feeling of honesty. The Doctor had fixed ideas on the subject and began: "Why no, Sir, if you act properly. You are not to deceive your clients with false representations of your opinion; you are not to tell lies to a judge."

Boswell led him on: "But what do you think of supporting a cause which you know to be bad?"

Johnson: "Sir, you do not know it to be good or bad till the Judge determines it. I have said that you are to state facts fairly; so that your thinking or what you call knowing a cause to be bad, must be from reasoning, must be from your supposing your arguments to be weak and inconclusive. But, Sir, that is not enough. An argument which does not convince yourself, may convince the Judge to whom you urge it; and if it does convince him, why, then, Sir, you are wrong, and he is right. It is his business to judge; and you are not to be confident in your own opinion that a cause is bad, but to say all you can for your client, and then hear the Judge's opinion."

Boswell: "But, Sir, does not affecting a warmth when you have no warmth, and appearing to be clearly of one opinion when you are in reality of another opinion, does not such dissimulation impair one's honesty? Is there not some danger that a lawyer may put on the same mask in common life, in the intercourse with his friends?"

Johnson: "Why no, Sir. Everybody knows you are paid for affecting warmth for your client; and it is, therefore, properly no dissimulation: The moment you come

from the bar you resume your usual behavior. Sir, a man will no more carry the artifices of the bar into the common intercourse of society, than a man who is paid for tumbling upon his hands will continue to tumble upon his hands when he should walk on his feet."

A short time later Boswell read to Dr. Johnson the following passage from Archbishop Laud's Diary:

1623. February 1, Sunday. I stood by the most illustrious Prince Charles, at dinner. He was then very merry, and talked occasionally of many things with his attendants. Among other things, he said, that if he were necessitated to take any particular profession of life, he could not be a lawyer, adding his reasons: I cannot (saith he), defend a bad, nor yield in a good cause.

The Doctor replied: "Sir, this is false reasoning; because every cause has a bad side: and a lawyer is not overcome, though the cause which he has endeavored to support be determined against him."

The question of whether a lawyer might work on Sunday was passed upon. Boswell felt that a lawyer had no more right than an artisan had to labor upon the first day of the week. Johnson, who, incidentally, was a good churchman eased his friend's mind with this comfort: "Why, Sir, when you are of consequence enough to oppose the practice of consulting upon Sunday, you should do it; but you may go now. It is not criminal, though it is not what one should do, who is anxious for the preservation and increase of piety, to which a peculiar observance of Sunday is a great help. The distinction is clear between what is of moral and what is of ritual obligation."

The Doctor's knowledge of forensics and of legislative psychology is aptly shown in a conversation which was had when his biographer sought information on how to address the House of Commons in opposing a road bill.

“Why, Sir,” advised Johnson, “you must provide yourself with a good deal of extraneous matter, which you are to produce occasionally, so as to fill up the time; for you must consider, that they do not listen much. If you begin with the strength of your cause, it may be lost before they begin to listen. When you catch a moment of attention, press the merits of the question upon them.”

He said, as to one point of the merits, that he thought, it would be a wrong thing to deprive the small landholders of the privilege of assessing themselves for making and repairing the high roads; it was destroying a certain portion of liberty, without a good reason, which was always a bad thing.

When Boswell mentioned this observation next day to Wilkes, the latter pleasantly said: “What! Does he talk of liberty? Liberty is as ridiculous in his mouth as Religion in mine.” This incident occurred some years after the King had sought to expel Wilkes from parliament. In passing it may not be amiss to call to mind that Mr. James M. Beck, in “The Vanishing Rights of the States,” devotes a chapter to the case of John Wilkes.

Lawyers are often accused of verbosity and, so far as I can learn, Doctor Johnson is the only man who has justified this apparent fault.

The election of Ayrshire, Boswell’s County, was being tried upon a petition, before a Committee of the House of Commons. Boswell was one of Counsel for the sitting member, and took the liberty of previously stating different points to Johnson, to gain the latter’s reaction. Johnson dictated the following note upon the registration of deeds:

All laws are made for the convenience of the community: what is legally done should be legally recorded, that the state of things may be known, and that wherever evidence is requisite, evidence may be had. For this reason, the obligation to frame

and establish a legal register is enforced by a legal penalty, which penalty is the want of the perfection and plenitude of right which a register would give. Thence it follows, that this is not an objection merely legal; for the reason on which the law stands being equitable, makes it an equitable objection.

“This,” said he to Boswell, “you must enlarge on, when speaking to the Committee. You must not argue there as if you were arguing in the schools; close reasoning will not fix their attention; you must say the same thing over and over again, in different words. If you say it but once, they miss it in a moment of inattention. It is unjust, Sir, to censure lawyers for multiplying words when they argue; it is often necessary for them to multiply words.”

Johnson’s conversation with Sir Alexander Macdonald and Boswell is given here as an interesting sidelight upon lawyers and judges whose names are among the most important in the law:

Sir A.: “I think, Sir, almost all great lawyers, such at least as have written upon law, have known law, and nothing else.”

Johnson: “Why no, Sir; Judge Hale was a great lawyer, and wrote upon law; and yet he knew a great many other things, and has written upon other things. Selden too.”

Sir A.: “Very true, Sir; and Lord Bacon. But was not Lord Coke a mere lawyer?”

Johnson: “Why, I am afraid he was; but he would have taken it very ill if you had told him so. He would have prosecuted you for scandal.”

Boswell: “Lord Mansfield is not a mere lawyer.”

Johnson: “No, Sir. I never was in Lord Mansfield’s company; but Lord Mansfield was distinguished at the

University. Lord Mansfield, when he first came to town, 'drank champagne with the wits,' as Prior says, he was the friend of Pope."

In the same conversation, Sir Alexander observed: "Bar-risters, I believe, are not so abusive now as they were formerly. I fancy they had less law long ago, and so were obliged to take to abuse, to fill up the time. Now they have such a number of precedents, they have no occasion for abuse."

As usual, Johnson disagreed. "Nay, Sir," he protested, "they had more law long ago than they have now. As to precedents, to be sure they will increase in course of time; but the more precedents there are, the less occasion is there for law; that is to say, the less occasion is there for investigating principles."

In this the Doctor was in error. Printed reports of judicial decisions continue to pour in upon the lawyer and with them conflict of authorities has greatly increased. The result has been that the lawyer is more and more required to examine first principles on the subject. Mr. Justice Cardozo has most forcefully written: "Our law stands indicted for uncertainty, and the names of weighty witnesses are endorsed upon the bill. If we seek for causes, there are many Of all these causes, the weightiest, I fancy, is the multiplication of decisions. The fecundity of our case law would make Malthus stand aghast. Adherence to precedent was once a steadying force, the guarantee, as it seemed, of stability and certainty. We would not sacrifice any of the brood, and now the spawning progeny, forgetful of our mercy, are rending those who spared them. Increase of numbers has not made for increase of respect. The output of a multitude of minds must be expected to contain its proportion of vagaries. So vast a brood includes the defective and the helpless. An avalanche of decisions by

tribunals great and small is producing a situation where citation of precedent is tending to count for less, and an appeal to an informing principle is tending to count for more."

When Adam Smith's *Wealth of Nations* was published in 1776, the subject arose whether one who had never been in trade was competent to treat of it. Johnson maintained that it was not necessary to have practiced, to write well upon a subject.

Boswell mentioned law as a subject on which no man could write well without practice. The Doctor's knowledge of law writers is shown in the following reply: "Why, Sir, in England, where so much money is to be got by practice of the law, most of our writers upon it have been in practice; though Blackstone had not been much in practice when he published his *Commentaries*. But upon the Continent, the great writers on law have not all been in practice: Grotius, indeed, was; but Puffendorf was not, Burlanqui was not."

The term of judges is a never ending topic of argument among lawyers. Judges of federal and of some state courts are appointed for life. In most states, however, they are elected for a definite term averaging between four and six years. There has been a tendency of late years to urge the appointment of judges who shall serve for life. It is not likely that the practice will grow in this country because it is considered hostile to democratic institutions. A compromise of positions has been reached in New York where supreme court judges are elected for a term of fourteen years. Attorneys who have had to practice before some domineering and petulant federal judge are especially vociferous in their praise of the magistrate chosen by the electors. Johnson, were he living today, would certainly sympathize with the lawyer who has received ill treatment at the hand of a judicial tyrant serving for the period of his natural life. When Lord Bute obtained life appoint-

ments for the English judges, the Doctor indignantly protested: "There is no reason why a Judge should hold his office for life, more than any other person in publick trust. A Judge may be partial otherwise than to the Crown: We have seen Judges partial to the populace. A Judge may become corrupt, and yet there may not be legal evidence against him. A Judge may become forward from age. A Judge may grow unfit for his office in many ways. It was desirable that there should be a possibility of being delivered from him by a new King."

We find Johnson in one of his best moods in an argument with Boswell and Davies over the question whether judges who went to India might with propriety engage in trade. Johnson warmly maintained that they might. "For why," he urged, "should not Judges get riches, as well as those who deserve them less?"

Boswell said, they should have sufficient salaries, and have nothing to take off their attention from the affairs of the public.

Johnson retorted, "No Judge, Sir, can give his whole attention to his office; and it is very proper that he should employ what time he has to himself, to his own advantage, to the most profitable manner."

"Then, Sir," put in Davies, "he may become an insurer; and when he is going to the bench, he may be stopped,—'Your Lordship cannot go yet: here is a bunch of invoices: several ships are about to sail.'"

But the Doctor not to be vanquished, continued: "Sir, you may well say a Judge should not have a house; for they may come and tell him, 'Your Lordship's house is on fire;' and so, instead of minding the business of his Court, he is to be occupied in getting the engine with the greatest speed. There is no end of this. Every Judge who has land, trades to a certain extent in corn or in cattle; and in the land itself, undoubtedly. His steward acts for him, and so do

clerks for a great merchant. A Judge may be a farmer; but he is not to geld his own pigs. A Judge may play a little at cards for his amusement; but he is not to play at marbles, or at chuck farthing in the Piazza. No, Sir; there is no profession to which a man gives a very great proportion of his time. It is wonderful, when a calculation is made, how little the mind is actually employed in the discharge of any profession. No man would be a Judge upon the condition of being totally a Judge. The best employed lawyer has his mind at work but for a small proportion of his time: A great deal of his occupation is merely mechanical."

The Doctor did not always so ardently defend the judges. On his famous trip to the Hebrides, the topic of the private life of the judges came up for discussion. When he set a less decorous standard for a jurist's life than Boswell thought proper, the latter observed, "Why, then, an English Judge, according to your account, may just live like a gentleman."

"Yes, Sir," paused Johnson, "if he can."

Not only did lawyers and judges come in for comment by the Doctor. Many subjects of legal interest received his attention. His views on the contract of marriage are shown in the following dialogue between him and his biographer:

Boswell had repeated to him an argument of a lady who maintained that her husband's having been guilty of numberless infidelities, released her from conjugal obligations, because they were reciprocal.

Johnson: "This is miserable stuff, Sir. To the contract of marriage, besides the man and wife, there is a third party—Society; and if it be considered as a vow, God: and, therefore, it cannot be dissolved by their consent alone. Laws are not made for particular cases, but for men in general. A woman may be unhappy with her husband; but she cannot be freed from him without the approbation of

the civil and ecclesiastical power. - A man may be unhappy, because he is not so rich as another; but he is not to seize upon another's property with his own hand."

Boswell: "But, Sir, this lady does not want that the contract should be dissolved; she only argues that she may indulge herself in gallantries with equal freedom as her husband does, provided she takes care not to introduce a spurious issue into his family. You know, Sir, what Macrobius has told us of Julia."

Johnson: "This lady of yours, Sir, I think, is very fit for a brothel."

The Doctor had the author's conventional view on libel. There can be little doubt of the wish being father to the thought in the following remarks. Boswell says: "I mentioned Mr. McLaurin's uneasiness on account of a degree of ridicule carelessly thrown on his deceased father, in Goldsmith's *History of Animated Nature*, in which that celebrated mathematician is represented as being subject to fits of yawning so violent as to render him incapable of proceeding in his lecture; a story altogether unfounded, but for the publication of which the law would give no reparation. This led us to agitate the question whether legal redress could be obtained, even when a man's deceased relation was calumniated in a publication. Mr. Murry maintained there should be reparation, unless the author could justify himself by proving the fact."

And thereupon the Doctor proceeded: "Sir, it is of so much more consequence that truth should be told, than that individuals should not be made uneasy, that it is much better that the law does not restrain writing freely concerning the characters of the dead. Damages will be given to a man who is calumniated in his life-time, because he may be hurt in his wordly interest, or at least hurt in his mind: but the law does not regard that uneasiness which a man feels on having his ancestor calumniated. That is too nice. Let

him deny what is said, and let the matter have a fair chance by discussion. But, if a man could say nothing against a character but what he can prove, history could not be written; for a great deal is known of men of which proof cannot be brought. A minister may be notoriously known to take bribes, and yet you may not be able to prove it."

On the subject of usury Johnson had a view which struck his biographer as novel. It was this: "The law against usury is for the protection of creditors as well as of debtors; for if there were no such check, people would be apt, from the temptation of great interest, to lend to desperate persons, by whom they would lose their money. Accordingly there are instances of ladies being ruined, by having injudiciously sunk their fortunes for high annuities, which, after a few years, cease to be paid, in consequence of the ruined circumstances of the borrower."

Operators of the petty loan business may disagree with the Doctor. Many bankers, however, have learned to their sorrow that exorbitant finance fees have been the forerunner to severe losses on bond issues.

In the United States, statutes against perpetuities, with certain exceptions, prevent limitation upon the right to dispose of property. It is usually held contrary to public policy to suspend the alienation of property for a period longer than the lives of those in being. In England for centuries the entailing of estates was recognized as lawful. Many able jurists and legislators have sharply criticised the practice. The system has its proponents and among them were Boswell and Johnson. Their side of the story may be interesting. Boswell writes: "I mentioned with much regret the extravagance of the representative of a great family in Scotland, by which there was danger of its being ruined; and as Johnson respected it for its antiquity, he joined with

me in thinking it would be happy if this person should die. Mrs. Thrale seemed shocked at this, as feudal barbarity; and said, 'I do not understand this preference of the estate to its owner; of the land to the man who walks upon the land.'"

But Johnson took issue. "Nay, Madam," he said, "it is not a preference of the land to its owner, it is the preference of a family to an individual. Here is an establishment in a country, which is of importance for ages, not only to the chief but to his people; an establishment which extends upwards and downwards; that this should be destroyed by one idle fellow is a sad thing.

"Entails are good, because it is good to preserve in a country, series of men, to whom the people are accustomed to look up to as their leaders. But I am for leaving a quantity of land in commerce, to excite industry, and keep money in the country; for if no land were to be bought in the country, there would be no encouragement to acquire wealth, because a family could not be founded there; or if it were acquired, it must be carried away to another country where land may be bought. And although the land in every country will remain the same, and be as fertile where there is no money, as where there is, yet all that portion of the happiness of civil life, which is produced by money circulating in a country, would be lost."

Many other items could be set out under the title of this paper. I have attempted to choose most of those which I believed possessed general interest. And now it is in order to cast about for a conclusion. Two of Johnson's remarks come to mind and each seems so fitting that both will be mentioned. I trust that those of you who have borne thus far will be no harder on me than the Doctor was on the woman whose preaching Boswell had discussed. "Sir," said the Doctor, "a woman's preaching is like a dog's walking on his hinder legs. It is not done well; but you are sur-

prised to find it done at all." Certainly, I hope that not all of you at this time feel like the Doctor when "a dull country magistrate gave Johnson a long tedious account of his exercising his criminal jurisdiction, the result of which was his having sentenced four convicts to transportation. Johnson in an agony of impatience to get rid of such a companion, exclaimed, 'I heartily wish, Sir, that I were a fifth.'"

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