and partly from the source from which the law that regulates it is taken, have from the earliest times in our legal history been imposed, which the testator is not allowed to transgress. But wills of *real estate* are not in contemplation of law regarded as testaments at all in this sense, but are viewed and conveyances, documents of title—the fact of death being as it were eliminated—operating to transfer particular lands to a particular devisee, subject to all the limitations and conditions by which the caprice or vanity of the settlor or testator may choose to fetter the enjoyment of the lands granted or devised.

III. The amendment needed, therefore, is in the law of testate rather than of intestate succession; and the reform should be made to include those cases where property is limited by instruments other than wills, such as, for instance, marriage settlements. Further, the law which regulates the limit during which the *corpus* of an estate can be tied up should be assimilated to the period during which the accumulation of rents and profits is permitted. But the chief step should be in the direction of restraint on the excessive power of alienation now enjoyed, by preventing as well the estate itself as the rents and profits issuing thereout from being settled or devised so as to accumulate for any period longer than the survivor of three lives in being at the same time. This period is analogous to that allowed by the Roman jurists;* it is already familiar to lawyers as a not unreasonable restriction upon dispositive powers; it would, it is believed, not be unfair towards the tenants either for life or in remainder under existing limitations, while it would have the effect of enabling the owner to make the land an article of commerce one generation earlier than is now the case.

Another point—which can here be noticed only in outline—deserves attention as bearing upon this difficult and interesting subject. In cases of intestate succession the descent of real estate to distant heirs and the devolution of personalty to distant kindred, commonly involves, as has been remarked by a learned writer, an amount of litigation, the abolition of which would be desirable. In these cases, while the claims of those who set up a title to the estate are remote, questions are raised of great intricacy, which in many cases lead to property being wasted in protracted and expensive contention. It is open to argument how far—that is to say, extending to what degree of kinship—such claims should be recognised as conferring a title to property at all; especially where, as sometimes happens, the estate or interest devolves unexpectedly upon persons who, from ignorance or other causes, are incapacitated from making a proper use of the wealth which they never at any time had reasonable grounds for regarding as their own. In such cases as these it would seem just that the claims of the public, of the country that is, in which a man has lived, and which has extended to him and his property the protection of its laws, should be held paramount to those of one who, as in the case of real estate, may found his title on his descent from the *most remote* male paternal ancestor of the intestate, or who claims a share in the personalty because he chances to be a survivor of many, standing, probably, in the fifth or sixth degree of kindred to the deceased owner.*

The proposal to apply in these cases the property to State purposes in diminution of public burdens, has the support, amongst others, of Mr. Hill;† and besides the equity of the proceeding itself, it is to be kept in mind that its adoption would inflict no injury on those from whom is merely withheld that which they never looked to enjoy. And as against persons who stand in such a remote degree of relationship to the ancestor, there is also the presumption, arising from his testamentary silence, that if he was not in favour of, he was at least, not opposed to, the appropriation of his property by the State; a body which may not unreasonably be considered as having as strong demands on such undisposed of interests as remote relatives for whom he cannot be shown to have any partiality, and of whose very existence perhaps he was not even aware.—*Law Magazine.*

* See Justinian's Institutes, Bk. ii., tit. 16. Maine's Ancient Law, p. 227.

SECURITY FOR COSTS.

The principles upon which the law as to security for costs is founded have not as yet been carried to their legitimate consequences. The existing legislation on the subject is based on the principle that it is productive of individual hardship and public inconvenience that a man should be brought into court to answer a complaint without reasonable security that he will be repaid his expenses in the event of the complaint turning out to be unfounded. If some such principle of natural justice, or public policy (whichever it be called), were not recognized, it would be impossible to justify the law which requires security to be given by a plaintiff residing out of the jurisdiction. On the other hand, if this principle be well founded, why is its application confined within such narrow limits, and not applied to all cases in which the defendant is without security for the payment of his costs, if successful? This is a question which has often been asked, and to which no satisfactory answer has as yet been given. On the one hand, it would be monstrous to shut the doors of the courts to all but the rich. A man's disabillity to give "security for costs" may be owing to the very wrong for which he seeks redress. It would

* See Mr. Joshua Williams' work on Personal Property, p. 195, where this view is advocated.

† Political Economy, Vol. I. p. 272.