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**Abstract:**

*Modernisation and Elite Survival: Family Entails and Legal Reform in Britain, 1770-1848*  
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From about 1600 until the 'bourgeois revolutions' of the mid-nineteenth century, fideicommissa and their British counterparts, so-called 'entails' or tailzies, were of key importance to the inheritance and marriage strategies of continental Europeans in general. This applied in particular to the Iberian nobility, and Spanish historians like Bartolome Clavero and his students have taken the lead in exploring the significance of this legal device in the Iberian peninsular and in Latin America. Over the past three decades, aspects of the economic and cultural uses of fideicommissa have been investigated by legal historians from various parts of Europe. This is in stark contrast to the state of legal research on Scotland: the ready availability and sheer volume of documentary evidence which testifies to the considerable economic and social importance of strict entails on land in eighteenth and nineteenth-century Scotland is strikingly at odds with the virtual absence of modern research into their historical development and significance. This strange neglect belies the fact that entails as the functional equivalents of European fideicommissa in fact were the subject of vigorous and informed debate by British lawyers who were fully aware of the wider European dimension of this subject. In the last third of the eighteenth century, Scotland's Enlightened lawyers thus embarked on a sustained campaign for the reform of entails which were – quite correctly – perceived as a major obstacle to social and economic progress. Reforms aimed at modernizing Scotland's legal infrastructure were deemed crucial for the promotion of trade, commerce and agricultural improvement which in turn was perceived a precondition for strengthening the country politically and economically within the legal framework of the British Union of 1707. Scotland's chronic undercapitalization in particular was a matter of great concern to these patriots. Among the legal strictures which drew fire from economists and lawyers, strict entails on land were singled out for special criticism. The prohibitive clauses against alienation and mortgaging of these 'perpetuities' severely curtailed the private credit of heirs of entail, thus effectively blocking potential funds for consumption

and investment, apart from withdrawing land as a commodity from the market. The Montgomery Act of 1770 (10 Geo. III. c. 51) for the improvement of entailed land was the first in a series of legal measures which eventually resulted in the disentailing acts in 1848/9, which reflected wider European revolutionary legislation aimed at breaking the economic and social framework of Scotland's and Europe's Ancien Régimes.

This paper will focus on the debate and legislation on Scottish entails from the Montgomery Act of 1770 to the further-reaching legislation of the mid-nineteenth century. The exploration of the larger issue of legal reform will be contextualized through an investigation of grassroots responses to the reform legislation of 1770, and the ways in which these affected the course of subsequent parliamentary reforms in the nineteenth century.