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... and religion of the ancients, language, manners, government, and the origin of the ancient Caledonians. London, 1768.

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which, as it is now understood, leaves a reproach upon our ancestors. The meaning of Mercetx Mulierum is, according to some, founded upon a custom which did great dishonour to the ancient civil government of Scotland.

Some of our best historians give the following account of the introduction of the Mercetx Mulierum among the ancient Scots. Evenus the Third, a King of Scotland, contemporary with Augustus, made a law, by which he and his successors in the throne were authorized to lie with every bride, if a woman of quality, before her husband could approach her: and in consequence of this law, the great men of the nation had a power of the same kind over the brides of their vassals and servants. We are told further by the same grave and learned historians, that this law was strictly observed throughout the kingdom; nor was it discontinued or repealed, till after a revolution of more than ten whole centuries. It was near the end of the eleventh age, that the importunities of St. Margaret prevailed with her husband, Malcolm Canemore, to abolish this unjustifiable custom. From that time forward, instead of the scandalous liberty given to every Superior by virtue of Evenus's law, the vassal or servant was impoverished to redeem the first night of his bride by paying a tax in money *. This tax was called Mercetx Mulierum.

I know not whether any one has been hitherto sceptical enough to call the truth of this tale in

* Boccet says a mark of silver, Buchanan half a merk.
question, though it wears the face of absurdity and fable. Twenty moral demonstrations conspire in rendering it absolutely incredible.

EVENUS, the supposed author of the law, is no more than an imaginary being. Boece and Buchanan, with all their historical knowledge and industry, knew just as little concerning the Princes of Caledonia, coeval with Augustus, and of the laws established by them, as the other learned men of Europe knew with regard to the Emperors of Mexico before the time of Fernando Cortez.

It is impossible to prove that any considerable division of Caledonia was governed by a single Monarch in the Augustan age. But were it true that the case was otherwise, and also certain that Evenus reigned in the Western parts of North Britain in that very epoch, it is not credible that the Scots of that age would have granted so very extravagant a prerogative to their King, or so very uncommon a privilege to their nobility. In those early times men were too fierce and intractable to crouch under a burden so insupportable. To a people of spirit, a total extinction of freedom and property, in every other instance, would have been a much easier yoke than the slavery, oppression and disgrace attending so very shocking a prostitution of their wives, daughters and kinswomen. But had even the lower people of Scotland been the most abject of all slaves, and uncommon patterns of passive obedience, it cannot be supposed that all

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the nobility, from age to age, would have practiced the doctrine of non-resistance, in such an amazing degree of perfection, as to permit their Sovereign to violate their honour in so heinous a manner. We know that many Princes, besides Tarquin, were dethroned, banished, and cut to pieces, for attempting the chastity of women. And we may safely affirm, that the most despotic King or Sultan in the East would fall a sacrifice, should he endeavour to establish the law of Evenus in that country, which has always been the scene of the severest exertion of arbitrary power.

Some may say, that the manners and opinions of men are greatly changed. But human nature was always, and will ever continue the same, in the matter now under consideration. In vain will it be said, that the Scots, through a long habit, became reconciled to this ignominious custom. The Scots certainly were not more passive than the other brave nations of the world; and the history of mankind does not exhibit a single instance of such brutal insensibility in any nation.

The satirical Gildas, who had entertained the most violent prejudices against the Scots, would not have omitted such an opportunity of declaiming against them, with his usual acrimony. Bede himself, though a writer of much greater humanity and moderation, would not have overlooked so remarkable a part of their character, especially as he impeaches them,
more than once, of other immoralities. It would have been more to his honour to have animadverted severely on so flagitious a practice, than to arraign them so frequently of heterodoxy, for a pretended error in the trivial affair of Easter.

If we consider the jealousy natural to women, it is highly improbable that the Queen of Malcolm Canemore was the first royal comfort in Scotland that would have solicited her husband for a repeal of this infamous law. In the course of more than a thousand years, which intervened between the pretended Evenus and Malcolm, there were no doubt many Queens whose influence with their husbands might have abrogated this lascivious institution.—The story altogether wears such a face of improbability, that it is astonishing how it ever became the subject of tradition itself, and much more that it has received the sanction of historians.

It is however certain that the Mercheta Mulierum were once paid in Scotland, and authorized by law. But this imposition was not peculiar to that kingdom. The Mercheta Mulierum were, properly speaking, pecuniary fines, paid by the vassal and servant to his lord and master, upon the marriage of his daughter, or paid by a widow upon a reiteration of nuptials: and this custom obtained in every part of Britain, though with some variation.

I cannot determine whether the brides of England or Wales were liable to this tax before the conquest; but
but in the reign of William the Norman they certainly were. "A woman, faith Domesday book, in whatever way she came by a husband, gave twenty shillings to the King, if a widow; but if a maid, ten only." That the grievance arising from this hard law was universal, or at least very general, may be justly concluded from different articles of the charter granted by Henry the First, and from the famous Magna Charta of King John.

In the fourth article of Henry's charter are the following words: "If any one of the Barons, or of the other vassals that hold immediately of me, shall incline to give his daughter, sister, niece or kindwoman in marriage, let him speak to me on that subject: but neither shall I take or receive any thing from him for a marriage licence, nor shall I hinder him from disposing of the woman as he pleases, unless he bestow her on my enemy." 

From the immunity given in these words, and from the preamble of the charter, one may naturally infer, that the law of the Merchetae had formerly prevailed in every part of England, excepting the single county of Kent. After King John had given the great charter of liberties to the Barons, and after that inestimable right had been confirmed by his son, grandson, and great grandson, we find, that not only villains, or the lowest class of people in England, were obliged to pay this fine, but those too who held...
their lands in free socage *. The fine was called Merchetum or Maritagium there, as it went under the name of Mercheta in Scotland.

It can scarcely be doubted that the feudal institutions of Scotland came originally from England. The general spirit of the feudal laws, and the manner in which they are expressed, afford almost a demonstration on that head. Malcolm Canemore had lived long in England, and owed very great obligations to that country. His Queen was a Saxon Princess, and English exiles were the great favourites of both. Malcolm's children had an English education; and after that period of time, the English language, the English system of religion, the English dress, and the English law, became fashionable in Scotland. Hence it may be inferred, that the old Scots flood obliged to their neighbours for the Merchæ Mulierum, and not to Evenus, their ideal King.

We have no cause to believe, whatever our historians affirm on that head, that Queen Margaret eased the Scots from this oppressive tax. In Regiam Majestatem, the Merchæ payable by an Earl's daughter is no less than twelve cows, and was a perquisite which belonged to the Queen. The Merchæ due by a Thane's daughter fell to the Superior, and was no more than a single cow, and twelve pence, which fell to the collector's share. The Merchæ of every woman, whether virgin or widow, is determined by our oldest institutes, and the fine payable to the Queen was by far the most considerable.

* Spelman in voc. Soke manerio.
It is very evident that Boece and Buchanan mistaken
the origin and true meaning of the Mercheta. According to the former, a Mark of silver was the
compensation demanded by Malcolm Canemore for
the first night of the bride; a privilege to which he
and his nobles had an equal right. But according to
Buchanan, the very half of that pecuniary tax was
all that could be required, or was given. It is strange
enough that these two authors could have differed so
widely in this matter; and it is equally so, that they
imagined the same sum precisely was exacted from
every woman, whether of high or low rank, and
whether a maid or a widow. From this circumstance
it may be justly concluded, that neither of these histo-
rians examined the old laws of their country.

With regard to the etymon of the word Mercheta, or Mercheta-
tum, none could be more improper than that offered by our learned
countryman Skene. It carries indeed too much immodesty in it to be
laid before any delicate reader. It is very probable that the tax under
consideration was paid in England before it was imposed in Scotland.
We should therefore look out for the true etymon of the Mercheta in
England. The Mercheta was surely a pecuniary fine, and amounted at
first to a Mark. Those who have studied the history of ancient coins
know very well that Marks of silver and gold bore very different values
in different countries, ages and nations. The English Mark consisted
of thirteen shillings and four-pence sterling. The Mark of Scotland
was no more than a twelfth part of that sum. The Burgundian ounce was the eighth part of a Mark; and a Scottish Mark was just
an ounce. The Danish Mark seems to have been equivalent to two
denarii, or two-pence; and in some countries the Mark was equal to
eight ounces. In short, whatever the original amount of the Mer-
chetum may have been, in all probability its etymon must beMarca,
Marcha, or Marchata, three words of the very same meaning.

† See Spelman, under the word Marca.