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OBSERVATIONS

BY THE
DELEGATES

FOR

Conducting the Application to Parliament for a
Reform in the Internal Government of the
Royal Boroughs of Scotland;

ON THE

C A S E

OF THE

TOWN COUNCILS,

STILING THEMSELVES

THE ROYAL BOROUGHS OF SCOTLAND;

AND ON A PAPER, ENTITLED,

“ A State of Facts, upon which Objections, in Behalf of
“ the said Royal Boroughs, are made against the Bill
“ offered to Parliament for a pretended Reform.”

POWER, however unjustly attained, and
however oppressively used, has always made a
hard struggle for its own preservation. The
most wretched systems of government or super-
A stition

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sition that ever existed, have been defended with violence. Those who possessed power under them, studious only how to maintain their situations, have generally overlooked the rights of their fellow citizens, together with every idea of justice and of the public good. To cover or supply their defect of right, they have always displayed the banners of power; and, by the boldness of their assertions, they have ever attempted to conceal the weakness and futility of their argument.

These observations are not inapplicable to the present conduct of the Town Councils of the Royal Boroughs of Scotland. It was not by any means to be expected that they should have made a willing surrender of their unjust power; and they have had recourse to the common arts of every tyrant, great or little, in order to defend it.

Last year they published a case which was pregnant with egregious errors, if not with inexcusable misrepresentations and false assertions. In the present year there has been produced to the

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the world a new edition of the same case, like a new phoenix from the ashes of the old one, which probably has been consigned to everlasting oblivion; but the new case is only distinguished from the old by stronger features of error and misrepresentation.

The new case, however, is prolific: it has already produced from its womb a hopeful child, exactly resembling itself in every feature of its countenance. It only differs in point of size. — There is however a manifest error in the name given to this new-born infant. It is called *a State of Facts*; but it should have been baptised *A State of Falsehood, Error, and Misrepresentation, tending modestly and decently to deceive Parliament, to impose upon the Public, and to misrepresent and calumniate the objects and motives of the Burgeses of Scotland.*—This ought to have been the title of the paper, because it is the one which more peculiarly corresponds to its nature and contents.

The Delegates on behalf of the Burgeses, in the first place, mean here to enter into a short examination

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mination or dissection of the *State of Facts*, and afterwards to offer a few observations on such parts of *the Case* as shall not be animadverted on in what is said with regard to the *State of Facts*.

Examination
and Refutation
of the State of
Facts.

The State of Facts consists of twenty-nine propositions. Of these, nineteen are false in fact or inference. The remaining ten are immaterial, being mere repetitions or things in a great degree foreign to the question.

First Proposi-
tion in State of
Facts.

The first proposition in the State of Facts is,
“ That there was a close resemblance between
“ the constitutions of the Cities and Boroughs
“ in Britain in the Charters of Election, the
“ *usage following upon them, and every other cir-
“ cumstance of general similitude.*”

Answer.

Although there may have been some resemblance between the Boroughs of South and North Britain, there are features of distinction which are strong and prominent: for, 1st.

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The constitutions of the Boroughs of England were dictated entirely by special grants or peculiar local usages, without any connection with each other, and independent of any general law; but it appears from the ancient books of the *Leges Burgorum* and *Statuta Guildæ*, that, even as early as 1124 and 1284, the governments of the Boroughs of Scotland were regulated by general laws; and the Act of Parliament of 1469 incontestably proves that one uniform constitution, though a bad one, for all the Boroughs of Scotland, was then introduced. 2dly. The Governors or Administrators of the Scottish Boroughs have universally power to dispose of or alienate the property of the community, which is not the case in England. 3dly. In Scotland the Common-councilmen have universally enjoyed the important power of electing the Member of Parliament; but in England this power is much more commonly exercised by the Freemen or common Burgeses, or by the Inhabitants at large, than by the select or governing part of the Corporations. 4thly. In every Borough in Scotland there is, besides

besides the Provost and Baillies, a Common Council; but in many English Boroughs there are no Common-councilmen, but only Mayors and Bailiffs, or Aldermen. 5thly, In Scotland all the individual Boroughs were, by the authority of Parliament, erected into one body, or great corporation, called the Convention, with certain powers and privileges relative to the superintendance of trade and manufactures; but in England such an union among the Boroughs never was established.

From this comparison it evidently appears, that there are strong distinctions between the Scottish and English Boroughs. There is, indeed, very little in which they agree, except in this, that they are all corporations erected by the power or prerogative of the Crown; and that they have certain officers for regulating their police and managing their common affairs, as every corporation or company must necessarily have.

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The Second Proposition in the State of Facts ^{Second Proposi-} is, "That the *Corporators*, both in England ^{t on in State of} and Scotland, consisted of a certain select ^{Facts.} number of Citizens and Burgeses, in whom the government of the place was vested under the title of '*Probi homines, cives potentiores, boni & sufficientes viri: Capital Burgeses, good or honest men of the Borough.*'"

The meaning of this proposition is not very ^{Answer.} obvious.

If the Author of the State of Facts means that those in whom the government of the place was vested, and whom he has called *Corporators*, were the only Members of the Corporation, he is certainly under a most egregious mistake, for every Burgeses, small and great, was a Member of the Corporation; which, it is conceived, is the meaning of the word *Corporator* in the law of England. If every Burgeses were not a Member of the Corporation, he could have no privileges above common individuals dwelling within the Borough; and the exclusive rights conferred on Boroughs, by the

the Charters of Erection and Incorporation, would be entirely confined to the Governors or Administrators. This is an idea of the rights of Boroughs, which, it is believed, never was entertained by any person except the Town Councils of Scotland.

But the State of Facts says, "that the government of the Boroughs was vested in a select number of Citizens and Burgeffes." Let that be supposed; but by whom was that number *selected*? Was it by themselves? This can scarcely be maintained. By whom, then, was the select number chosen? In England the election was, in general, by the Burgeffes at large, who had the natural and proper interest in the good government of the Boroughs. In Scotland this was universally the case prior to 1469, as shall be afterwards more fully explained.

Third Proposition in State of Facts.

Here it is affirmed that in England "the original fabric continues entire; and that the present Mayors, Bailiffs, Aldermen, and Common-councilmen,

"councilmen, are the direct successors of the original Corporators."

If by this is meant that the present officers Answer. enjoy the same offices that former officers did, the proposition is certainly true; but if it is meant that the officers of the Corporations in England are universally *self-elected*, the assertion is unquestionably false: for the Delegates are authorized, from good information, to say, that in a great majority of the Boroughs of England the Magistrates and Common-councilmen are elected by the Freemen or Burgeffes at large. It is only in a few that the officers of the Corporation are self-elected.

The State of Facts, after reciting the Statute Fourth Proposition in State of Facts. of 1469, uses these words:—"By this ancient Statute *it is proved*, that none but the Aldermen, Bailiffs, and other executive officers, *were annually chosen*; and that before this Act the *Councilmen were permanent*, as in England."

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These

Answer.

These assertions, however bold and confident, are contradicted by the plain words and meaning of the very statute to which they allude. The truth of this will be apparent from a little attention to the terms of the Act of Parliament itself, which proves the very reverse of what is asserted.

The words of the statute are these:—*Item*,
“ touching the election of officiares in bur-
“ rowes, as Aldermen, Baillies, and *other offici-*
“ *ares*, because of great contention zeirly for
“ *the chusing of the Samin, throw multitude and*
“ *clamour of commounes simple persons*, it is
“ thought expedient, that na Officiares nor
“ Council be continued after the Kingis Lawes
“ of Burrowes, further then ane zeir; and that
“ the chusing of new officiares, be in this
“ wise, that is to say, the auld Council of the
“ Towne shall chuse the new Council, in sik
“ number as accordis to the Towne and the
“ new Council, and the auld in the zeir fore-
“ said shall chuse all officiares pertaining to the
“ Towne; as Aldermen, Baillies, Dean of
“ Guild, and uther officiares; and that ilk craft
“ shall

“ shall chuse a person of the samin craft that
“ shall have voit in the said election of officiares
“ for the time in likewise zeir by zeir,” &c.

In that Act of Parliament the term, *offi-*
ciaries, evidently comprehends the Councilmen,
as well as the Aldermen and Baillies. This is
plain to demonstration, from the following ex-
pressions in the statute:—“ *And that the chusing*
“ *of new officiares be in this wise, (that is to*
“ *say,) the old Council shall chuse the new Coun-*
“ *cil.*” Here the term *officiares* undeniably
signifies, the *Councils* as well as the Magistrates.
This being the case, it follows as a necessary
consequence, that, prior to the act, the election
of the Councils, as well as of the Magistrates,
was annual; for the act expressly says—“ *Item*,
“ touching the election of officers in boroughs,
“ as Aldermen, Baillies, and *other officiares*,
“ because of great contention yearly for the
“ *chusing of the same.*” Here it is plain that the
contention was about the election of Aldermen,
Baillies, and *other officiares*; under which last de-
scription, as has been already proved, the council-
men are comprehended. The statute also proves

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that the *contention* was yearly. How then is it possible to contend, that, prior to this statute, the election of the Councilmen, as well as the Magistrates, was not annual? Till very lately it had not occurred, even to the Town Councils themselves, to dispute this fact, which is not only proved by the act 1469, but confirmed by the additional authority of the *Leges Burgorum* and the *Statuta Guildæ*. And indeed it will be observed, that this very Act of Parliament of 1469 makes an express reference to the laws of Boroughs, as authorizing an annual election of Councils, as well as Magistrates; for the statute says, "It is thought expedient that no Offices nor Council be continued after" (according to) "*the Kingis Lawes of Burrowes*, "further than a year." This is the plainest possible declaration of the sense of the Legislature, that, by the antient laws of the Boroughs, the election, both of Magistrates and Councils, was annual.

What has been here offered affords demonstration, that, prior to 1469, the election, both of Magistrates and Councils, was annual; in direct

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direct opposition to what is so boldly advanced in the *State of Facts*. The same position will be still farther confirmed in the sequel.

It only remains to enquire by whom the Magistrates and Councils were annually elected.

The Committee for Reform in their Resolutions have referred to evidence, that the right of election was vested in the ordinary Burgeses, otherwise called the Honest Men, the Probi Homines, of the Boroughs.

To elude the force of that evidence, the *State of Facts* supposes, without the smallest authority, that the expression of *Honest Men of the Boroughs* signified the governing part of the community, and not the ordinary Burgeses. If that was the case, what, pray, was the use or meaning of the Act of Parliament 1469? for by the laws of the Boroughs, and the statutes of the Guild, *the election of Magistrates and Councils* was as far back as 1124 and 1284, vested in *the Honest Men of the Borough*, that is, according to the *State of Facts*, *in the governing part, or Magistrates and Councils themselves.*

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Why then was the Act of 1469 made for the very purpose of depriving the common and simple Burgeſſes of the rights of election, and veſting it in the Magiſtrates and Councils, that is, in thoſe who, according to the State of Facts, already had it!

This is an abſurdity into which the State of Facts is neceſſarily involved, by an attempt to pervert the meaning of words, and the truth of hiſtory.

Aware of that inconſiſtency, the State of Facts, in order to extricate itſelf, has reſort to another ingenious ſtretch of fancy, but *incidit in Scillam, cupiens vitare Charybdin*. — It ſays, that although the common Burgeſſes diſturbed the elections, they had no right to do ſo; and *therefore* the act provides that the old Councils ſhall chuſe the new ones. Let us examine a little this kind of reaſoning. The common Burgeſſes, it ſeems, attended and diſturbed the elections, but they had no right to be preſent; and therefore an Act of Parliament was made to deprive the Burgeſſes of what?

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what? — Of rights of election, which, according to the State of Facts, never were veſted in them! Nay, the State of Facts carries the abſurdity ſtill higher; for it ſuppoſes that the ſolemnity of an Act of Parliament was interpoſed to deprive the common Burgeſſes of the *right of diſturb*ing the elections! Thus, to explain the Acts of the Legislature, is not merely to violate the truth of hiſtory and of facts, but to offer an inſult to common ſenſe; for whoever yet conceived that an Act of Parliament was neceſſary to ſtrip men of what they never had, or to take away a *right of diſturbance*? If the common Burgeſſes had no right to attend the election, was not the executive power ſufficiently warranted to prevent them, and to protect the proper electors from diſturbance? of this it is impoſſible to entertain the ſmalleſt doubt.

The Act of Parliament was therefore made, not for the abſurd and needleſs purpoſe of taking from men what they never had, or of abolishing a *right to diſturb*, but to limit the exerciſe of the right of Election, and to deprive the ordinary Burgeſſes of that right. This is evident

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evident from the statute itself. The evil which it mentions is the yearly contention arising in elections *through multitude and clamour of common simple persons*: Is it possible to offer a clearer or more convincing demonstration than this, that the *common* Burgeſſes were among the numbers of electors? The remedy applied, however bad, was the natural one for correcting the pretended evil. It was to exclude the *common* and *simple* Burgeſſes from the rights of election, and to entitle the old Councils to elect the new ones; or, in other words, to elect their own ſucceſſors.

To all this ſatisſactory evidence, that the common Burgeſſes very anciently enjoyed the rights of election, the Delegates, were it neceſſary, might farther add the actual practice of ſome Boroughs long anterior to 1469, particularly of Aberdeen; the records of which are preſerved for near one hundred years before the 1469, and prove, beyond diſpute, that for a very long period prior to the Act 1469, the Burgeſſes at large exerciſed the right of electing annually their Magiſtrates and Common Councils.

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Councils. The ſame records alſo prove, that the Burgeſſes continued the antient practice of electing the Magiſtrates and Councils even for 120 years poſterior to the Act 1469; ſo far was that ſtatute from being quietly or univerſally ſubmitted to, as the Town Councils affirm, and ſo ſtrongly did it militate againſt the ſpirit of the people, as well as againſt the principles of liberty, and the ideas of juſtice and public utility.

It is here aſſerted, *as proved by the Act 1469*, Fifth Propoſition in the State of Facts. that the craftſmen were among thoſe citizens, who, prior to that ſtatute, “ had no right to vote “ in elections, and that an intereſt was thereby, “ for the firſt time, beſtowed upon them.”

This is a moſt extraordinary perverſion of the Answer. ſtatute, which *proves* no ſuch thing as is here advanced. It proves the direct contrary. It has been already demonſtrated, that the common Burgeſſes at large and the Craftſmen, among others, had, prior to 1469, a right to vote in elections of Magiſtrates and Common Councils.

Councils. The effect of the statute, therefore, was not to confer any new right on the Craftsmen, but to limit, to a very great degree, their antient privilege of election; because, formerly, every individual craftsman had a vote as a Burgefs; whereas the statute declares, that only one man of each craft fhall have a right of voting in elections of Magiftrates and Councils. This being the cafe, it is not a little furprifing that a statute, which limited the rights of the Craftsmen to fo great a degree fhould have been conftrued into a charter of new and high privileges!—An act of deprivation is thus converted into an exertion of liberality and a difplay of favour!

Sixth Propofition in the State of Facts.

In most of them (*i. e.* of the Boroughs) “ a peaceable rotation of the urbane offices is fecured to all concerned.”

Answer.

Than this, there never was a greater mifrepresentation. It is a matter of the moft public notoriety that there is *no fuch rotation* of office among the Burgeffes at large; and indeed there is no rotation at all, except within the narrow

narrow

narrow circle of the jundos in the Councils, and their immediate connections and dependents.

The Propofition here laid down is, “ That ^{Seventh Propofition in the State of Facts.} the mode of Election in Scotland, as modelled by James the Third, has remained above three hundred years without a complaint on the part of the Public, and with the entire approbation of the Legislature.”

In answer to this strange assertion it is only ^{Answer.} necessary to obferve, that the London Committee, in their refolutions, have referred to a feries of evidence, derived from public records, for the purpose of fhewing that nearly from the very period of the Act of 1469 the internal adminiftration of the Boroughs had been a fubject of long and repeated complaint, both to the Legislature and executive government of Scotland.

It is true the Acts of Parliament and Royal Commissions, which condemn the adminiftration of Boroughs, do not mention the words “ *modes of Election in Boroughs;*” from which

the Town Councils take occasion to say that these modes of Election were not complained of. This is a pitiful evasion, under which the Town Councils chuse to take shelter. The Acts of Parliament and Royal Commissions referred to in the resolutions of the London Committee, do, in the most pointed terms, arraign the whole administration of Boroughs, particularly in relation to the revenues; and it is utterly impossible to dispute that the gross abuses, so loudly complained of, originated from the *self-electing* power of the Councils, by which a junto preserved the perpetual management. Has there then been no complaint of the mode of Election or Government of Boroughs, while their administration has for ages past, in repeated instances, received the highest disapprobation both of the King and Parliament of Scotland?

Eighth Proposition in the State of Facts.

This proposition affirms, that it is the object of the reformers to give the choice of the Magistrates and Councilmen to the whole burghesses, heretors, and *inhabitants*, of each town, annually.

This

This is a glaring falsehood. No such idea Answer. ever was entertained by the friends of reform. The object of their application to Parliament is to vest the right of electing the Magistrates and Councilmen in the burghesses and heretors of certain descriptions and qualifications. But an indiscriminate communication of the powers of election to *inhabitants at large*, is a measure which never yet has been thought of.

Here it is affirmed, that the election of Mem- Ninth Proposition in the State of Facts. bers of Parliament is the real object of the burghesses, and not a reform in the internal government of the Boroughs.

This is another attempt to mislead. At pre- Answer. sent the election of the Member of Parliament is in the Town Councils; and this right of election is not proposed to be touched. It is to remain with the Town Councils as formerly, and will be as quiet and practicable as in past times. How then can it be pretended that the view of the reformers is to alter the mode of electing the Member of Parliament? The real fact is, that the sole, direct, and proper object of

of the present reform is, to establish a salutary, internal government for the boroughs.

Tenth Propo-
sition in the
State of Facts.

The Tenth Proposition is expressed in the following words: in allusion to the Reformers, it says, " At the outset they declared their " *Lives, Liberties, and Properties* to be wholly " dependent upon the right of chusing Mem- " bers of Parliament; since that hope has been " lost, they have found means to continue in " the enjoyment of these invaluable blessings, " by discovering that they did not depend " upon the right of naming Members of Par- " liament, but of Magistrates and Counsellors."

Answer.

This is a miserable attempt to misrepresent the language and sentiments of the friends of Reform, and it deserves no other answer.

Eleventh Pro-
position in the
State of Facts.

Of all the Propositions advanced in the *State of Facts* this is the most curious: it says, that the Reformers " attack the statute of James " the Third of Scotland, as destructive of the " former freedom of the Burghs of that King- " dom; and in doing so, they have either " committed

" committed a *most egregious mistake, or wilfully* " *ventured upon a bold misrepresentation.* Of all " the Scottish princes, James the Third was " the most partial to the class of Burgeses and " Citizens: upon their account he quarrelled " with his nobility; by them he was rescued " when a prisoner in the castle of Edinburgh, " and to that Prince the artizans of Scotland " owe the chief honours and distinctions they " have to boast of. *Amongst the favours be-* " *stowed by James upon the Citizens, the very* " *Act of Parliament is to be ranked,* which is " now arraigned by the Reformers as the " blow of a Tyrant against the liberty of his " Subjects."

That the statute of James the Third de- Answer-
stroyed the freedom of the Burgeses, has been demonstrated in a manner that cannot now admit of dispute; yet, according to the State of Facts, that statute is to be ranked *amongst the favours bestowed by James upon his Citizens!* the absurdity of this idea cannot be heightened by any powers of language.

The

The State of Facts, dictated as it would seem by a fixed habit of misconception or misrepresentation, supposes, that the Reformers impute the Act 1469 entirely to the tyranny of James.

It is remarkable that the *State of Facts* can state almost nothing right. In the paper published by authority of the Committee of Reform, the statute of James the Third is spoken of in the following words: after stating the ideas which led to the enactment of that statute of 1469, and which are ascribed to the aristocracy of Scotland; the paper says, "Upon these principles, however illiberal and unjust, an Act was passed in the Parliament of Scotland, in the year 1496, Cap. 29, touching the election of Officers in Boroughs, obtained in the minority of the reigning prince, by the power of the Scottish Nobles."

The account therefore which is given by the Reformers of the origin of the statute of James the Third is perfectly consistent with his character, and his differences with his Nobility

bility, as described in the State of Facts; and for once the friends and enemies of Reform seem to be agreed: but surely the statute was not the less oppressive, that it proceeded chiefly from the tyranny of the Aristocracy, rather than that of the Prince, who was a minor at the time.

"The Act," says the State of Facts, "demonstrates that the Common-councilmen of Scotland (as in England at this moment) were stationary; that the executive Officers only were elective, and that the Craftsmen or Artizans had, before that time, no interest of any kind in the governors or government of the Scottish Boroughs."

Not one of these particulars is demonstrated by the Act; on the contrary, it proves the very reverse, and in this respect, is confirmed, in the strongest manner, by collateral evidence, as has been already clearly established: but upon what authority has the author of the State of Facts ventured to assume it as a given proposition, that the Common-councils of England, at

Twelfth Proposition in the State of Facts.

Answer.

this moment are stationary? He appeals to the City of London, and yet the Common-councils there, are annually elected. Scarcely any thing can be asserted as a general proposition with regard to the constitutions of the English Boroughs; they are so various, and so different from one another; but this, it is thought, may safely be affirmed, that there are more Common-councils annually elected than stationary in England.

Thirteenth Proposition in the State of Facts.

Here the State of Facts has ventured positively to assert, "That the *persons complaining*, " have in general no concern with the Boroughs: *the majority of them are Gentlemen of the Law.*"

Answer.

This is a most glaring abuse of truth, in the light of day, and in the face of Parliament. For about *nine thousand* actual resident and trading Burgesses and Heretors, have subscribed the petitions to Parliament, *complaining, in the most forcible language, of their systems of Borough government*; and it is believed,

lieved, *not one of the Gentlemen of the Law* alluded to have signed those petitions; yet it is positively asserted in the *State of Facts*, that the *persons complaining*, have in general *no concern in the Boroughs*, and that *a majority of them are Gentlemen of the Law*. From this, the Public and the Legislature may conceive what stretches of fancy the Town Councils are capable of making, in order to serve a particular purpose.

It is true, that in the general Committee of Convention at Edinburgh, there are several Gentlemen of the Law, which has naturally and necessarily happened. Edinburgh is the place where the general conventions of Delegates from the Burgesses have been held: by this means it is the general center of communication among the Burgesses; and as the establishment of a Committee there was unavoidable, so it was naturally composed of persons in whom the Burgesses reposed confidence, being partly Merchants and partly people of the Law, and other gentlemen who were thought to be qualified for the business.

fourteenth Proposition in the State of Facts.

“ The cause is supported and carried on by a stranger influence with views diametrically opposite to those which are publicly avowed.”

Answer.

To this, the Delegates are authorized to give the most unqualified contradiction, and to affirm, that the Burgeses have no views but such as they openly avow and profess, that is, to obtain from the justice of Parliament a beneficial system of internal government for the Boroughs. What is meant by a stranger influence is not understood: the cause is supported by the *declared voice of nine thousand actual Burgeses and Tradesmen resident in the Boroughs*. Is that a *stranger influence*? The State of Facts glaringly contradicts itself. In one part, it ascribes the Reform to a *stranger influence*; in another part, it ascribes the scheme entirely, as in the very next proposition, to the *Craftsmen or Mechanics*, who certainly are not *Strangers* in Boroughs.

fifteenth Proposition in the State of Facts.

Here it is averred that the present scheme of Reform is dictated entirely by the Craftsmen

or

or Mechanics, and that the rights of the Guildry or Merchants are overlooked or suppressed. This is the meaning of the State of Facts, when it says, on page 16th, “ that the Bill is framed with a design to raise the lesser class of citizens to superiority and influence over all their neighbours.” The same idea is more strongly expressed in different parts of *the Case*;—on page 33 it says, “ The tradesmen seized the conduct of the business, and framed a *Bill for themselves*. This is the Bill now offered to the House of Commons.” *The Case*, on page 38, says, “ The Bill objected to is an unparalleled attempt of a few tradesmen, to secure to themselves the nomination, both of the Magistrates and Members of Parliament, of all the chiefs Burghs of Scotland.”

These different averments so confidently made are direct falsehoods, as well as a gross imposition, on the Legislature and on the Public; for,

First,

First, In the general conventions held for the purposes of Reform by the Burgesſes of the concurring Boroughs, there were Delegates present for the Merchant or Guild Brethren, as well as for the Craftsmen or Mechanics; and the Delegates for both these bodies, or descriptions of men, heartily and unanimously approved of the Bill of Reform, which is now objected to on the false pretence, that it is the scheme only of the Craftsmen.

Secondly, The Delegates do directly affirm, that, according to the proposed Bill of Reform, the *Merchants, or Guild Brethren, in every Borough of Scotland, without exception, have a decided majority in the Councils over the craftsmen or mechanics.* How then is it possible for the Town Councils to maintain, or for others to believe, that the present Plan of Reform has originated from, and is supported only by, the craftsmen? To prove, beyond dispute, the falsehood of the averment, the Delegates subjoin, by way of examples, a scale of the numbers of the trades and merchant Counsellors, in many of the Boroughs, according to the Bill;

Bill; and in the other Boroughs, the number of the merchant and trades Counsellors bear nearly the same proportion throughout.

	Number of Merchant or Guild Counsellors.	Number of Trades Counsellors.
Glasgow, - - -	18	14
Aberdeen, - - -	17	6
Perth, - - -	14	12
Dundee, - - -	17	9
Stirling, - - -	14	7
Linlithgow, - - -	19	8
St. Andrew's, - - -	23	6
Coupar, Fife, - - -	15	8
Dunfermline, - - -	18	8
Irvine, - - -	11	6
Dunbarton, - - -	10	5
Burntisland, - - -	15	7
Sanquhar, - - -	12	5
Arbroath, - - -	12	7

Lochmaben,

	Number of Merchant or Guild Counsellors.	Number of Trades Counsellors.
Lochmaben, - - -	10	5
Lanerk, - - -	10	7
Jedburgh, - - -	17	8
Banff, - - -	11	6
Elgin, - - -	11	6
Edinburgh, - - -	17	16

With regard to Edinburgh, it has always been allowed that the number of the Guild or Merchant Counsellors is too small, considering the weight and importance of the Guildry; and therefore it was, on every occasion, understood, that a proper addition was to be made to the number of the Common Counsellors of Edinburgh, eligible by the Guild Brethren, so as to give them a decided and considerable majority in the Council.

teenth Proposition in the
of Facts.

This proposition asserts, "That the unavoidable consequence of the regulations proposed

" proposed by the Bill of Reform is, that the election for all the Members of the Boroughs of Scotland must remain with the said Companies of Artisans, though second in rank, and fewest in number."

This assertion cannot be true, for two reasons: First, the election of Members of Parliament is expressly to remain with the Town Councils as formerly, so that the Companies of mechanics have no power in that matter, except in so far as they have representatives in the Town Councils; and,

Secondly, It is an incontestable fact, beyond the power of cavil, that, by the proposed scheme of Reform, the Merchants, or Guild Brethren, in every Borough of Scotland, without exception, have a decided majority in the Councils over the Craftsmen or Mechanics. How then is it possible that the Counsellors of the Companies of Artisans, or Mechanics, confessedly far inferior in numbers to the Guild or Merchant Counsellors, can command the election of the Members of Parliament?

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Seventeenth Proposition in the State of Facts.

In this proposition a positive assertion is made, "That no evil of any kind exists to justify the *hazards*, the idleness, expence, and *disorder* of such a *dangerous Revolution*."

Answer:

In answer to this, it is sufficient to refer to the Resolutions of the London Committee of the 6th of May, 1788, which enumerate some of the evils and gross abuses that exist in the government of the Boroughs. To grant illegal and partial exemptions from the duty of quartering soldiers; to exact large sums of money, illegally, in name of cess; to dilapidate the public property; to misapply the public revenues; to contract enormous debts; to job the public works and business; to have Magistrates and Councillors of Scottish Boroughs resident in England, Newfoundland, and Hindostan; to raise, exorbitantly and oppressively, the dues of admission of Burgesses; and above all, to impose and levy taxes without the authority of Parliament. Are not these abuses that require the correcting hand of the Legislature? That they are abuses of the most enormous kind

kind cannot be denied; and it is equally undeniable, that they admit of no possible remedy, other than that of destroying the self election of the Common Councils, in itself the greatest of all abuses, and the source of every other evil in the administration of Boroughs.

But what are the *hazards*, the *disorders*, and the *dangers*, with which it is alledged the Reform would be attended, and which produce so much terror in the imaginations of the Town Councils? It is only asked, that their *self-election* shall be destroyed, and that they shall be bound, in a proper manner, to account. Are they really serious in endeavouring to persuade the world, that so simple and useful an arrangement would involve a *hazardous and dangerous Revolution in Government*?

It is here asserted, that "the regulations proposed for execution of the scheme are complied, numerous, troublesome, and variable."

Eighteenth Proposition in the State of Facts.

If the salutary principle of Reform is adopted, the wisdom of the Legislature will likewise establish proper regulations for carrying

Answer.

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that principle into execution; it is therefore premature and idle at present to enter into a debate about the manner of executing the principle of Reform.

At the same time the Burgeffes cannot help thinking, that the regulations they propose are in general short, simple, and expedient. A system of internal government for the boroughs, salutary and practicable, has been comprized in about twenty small quarto pages; and it deserves to be remarked, that some of the very men who now oppose the Reform, brought lately into Parliament a Bill, *extending to fifty-four pages*, for the single purpose of building a bridge *over the Cowgate street of Edinburgh*; yet the length or complicated nature of that Bill, though infinitely inferior in its object to the present, never was thought of as an objection of sufficient importance to rouse the opposition of the Legislature, or of any man in the kingdom.

It is farther said in this proposition, that the oath proposed in the Bill is to be taken by all ranks

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ranks of men, and that it must be attended with the worst consequences to society.

But in the first place, it is not true that the oath is to be taken by all ranks of men; it is only to be taken by Heretors: and in the second place, the oath objected to as productive of the *worst consequences to society*, is, with some small addition, almost a verbatim copy of the *oath long ago required by the laws of Scotland to be sworn by Heritors in county elections*.

The last proposition is, that the right of all the electors and elected of the Boroughs are regulated by Acts of Parliament, which would be repealed by the scheme of reform. This idea is more clearly expressed on page 22 of the *Case*, in the following words. — “ The constitution of Parliament would be substantially altered, and all the subsisting laws, under which the representatives of the Scottish Burghs are sent to Parliament, voided and repealed.”

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Answer. The effect of the present Reform, as to the constitution of Parliament, has been already explained; and with regard to the supposed repeal of laws, the committee do not know that a single act, under which the representatives of the Boroughs are sent to Parliament, would be voided or repealed. They have no such repeal in contemplation.

Objections offered in the Case for the Royal Boroughs against the Reform, and Answers to these Objections. The Delegates having thus examined every thing material in the *State of Facts*, will now proceed shortly to consider the import of the objections to Reform mentioned in *the Case* for the Royal Boroughs.

Objection 1st. The first objection is extremely frivolous. It says, that the object of the Bill is different from the title, and that it specifies no abuse.

Answer. The *title* says, that the Bill is for correcting abuses and supplying defects in the internal government

government of the Boroughs, and in the manner of accounting.

One of the objects of the bill is to destroy the *self election* of the councils. Is self election no abuse in the constitution? The next object of Reform is to establish a proper tribunal before which magistrates are to account, but which is at present altogether wanting. Is not that a *most manifest defect*?

Such being the case, in what respects is the object different from the title of the Bill? The title professes to correct abuses, and supply defects; the object of the bill is the very same, but, perhaps, the objectors meant that the Bill should descend to a minute specification, or detail, of all the abuses it intends to correct. Was there ever an act of Parliament that did so?

This objection is founded on the Royal prerogative. The Burgeſſes are accused of an inconsistency in admitting the propriety of the alteration made by His Majesty in the constitution

tion of the Borough of Stirling, while, at the same time, they endeavour to introduce their present Bill into Parliament, without applying for His Majesty's consent.

Answer.

This charge of inconsistency proceeds from an evident inattention or error. When the corporation of Stirling was deprived of its freedom by a sentence of the supreme court, it was legally reduced to a state of non-existence; it was therefore optional to the King to restore it to life, or not, as he pleased, and under what qualities or conditions he thought proper, not inconsistent with the laws of the land, in the same manner as he might create a new corporation.

But surely the Town Councils will not pretend that the Crown could use the same freedom of altering and new modelling, at pleasure, the constitution of every existing corporation, unless they chuse to insist that the Boroughs hold their rights in absolute and entire dependance on the will of the Crown. But that is a doctrine which, if ever

ever it was maintained, has long ago been fortunately exploded in the law and constitution of this country. Such being the case, it is not from any disrespect to the King that the Burgeses do not apply for his consent on the present occasion. They may venture to assert, that their respect for Majesty is as high, and their loyalty as firm, as those of the Town Councils; but in their present conduct, they are actuated by a perfect conviction that the prerogatives of the Crown have nothing to do with the question, and that the present constitution of the Scottish Boroughs, originating from general laws enacted by the Parliament of Scotland, may be altered by the Parliament of Great Britain, independent of any previous consent from the Crown.

This objection is founded on the Treaty of Union, which declares that "*the rights and privileges of the Royal Boroughs, as they now are, do remain entire after the Union, and notwithstanding thereof.*"

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Answer.

The meaning of this clause, in the Treaty of Union, has been explained in the illustration of the principles of the Bill of Reform, from page 6 to 10, and in the Appendix thereto, from page 1 to 3. The following short additional observations on the subject may be submitted.

1. The convention of Royal Boroughs have themselves given a decided opinion on repeated occasions, that by the Treaty of Union the political sets or constitutions of the Boroughs were not rendered unalterable; for the convention has, since the Union, altered the constitutions of no less than sixteen of the Royal Boroughs.

2. It has been insinuated, that one of the *rights and privileges* reserved to the Royal Boroughs by the Treaty was the power of altering their own sets or constitutions at pleasure.

This doctrine would lead to consequences the most absurd. It supposes the meaning of the Treaty

Treaty of Union to have been, that power was vested in the Convention of the Royal Boroughs to alter and repeal the public statutes and established laws and usages of the kingdom relative to the sets or constitutions of the Boroughs; while that supreme power is supposed to have been denied to the British Parliament! This involves an absurdity too gross to be maintained.

3. It is incontestable that the Treaty of Union contained nothing to prevent the British Parliament from altering the political constitutions, or election laws of the counties. What foundation, then, is there for supposing that the political constitutions, or governments of Boroughs, were rendered unalterable? The very idea is perfectly absurd.

4. The Treaty of Union itself, taken in conjunction with the proceedings of the Commissioners at London, affords convincing evidence that the political constitutions, or election laws of the Boroughs, were not in the smallest degree within its meaning or intention.

It will be observed, that the twenty-first article of the Treaty of Union, on which the Town Councils rest their present argument, is a verbatim copy of a proposal made by the Commissioners of Scotland to those of England on the 29th day of May, 1706. The proposal was in these words :

“ That the rights and privileges of the
“ Royal Boroughs of Scotland, as they now
“ are, do remain entire after the Union, and
“ notwithstanding thereof.”

At the time of preparing this proposal by the Scotch Commissioners, every individual Royal Borough in Scotland had a right to send a Member to the Scotch Parliament.

The proposal was adopted in its precise terms by the Commissioners for England, and now forms the very article in the Treaty relative to the Boroughs.

But it will be observed, that by the Treaty the parliamentary rights of the Boroughs were greatly

greatly limited, in as far as districts, consisting of four or five Boroughs, were to send only a single Member to the British Parliament, instead of a Member being sent from each individual Borough as formerly.

It is therefore evident, that the words, “ *Rights and privileges* of the Boroughs, as “ they now are,” in the proposals of the Scotch Commissioners, and in the Treaty itself, were never meant to extend to the political constitutions, or election laws of the Boroughs. The same words in the proposal of the Commissioners at London, and in the Treaty, must be understood to have the same meaning ; yet if the argument of the Town Councils, in the present case, were good, the Treaty, without any alteration of the words, would be a direct violation of the proposal made by the Scotch Commissioners, and agreed to by those of England. In short, it is impossible to put any consistent construction on the proposals of the Commissioners and the Treaty, otherwise than by supposing that the words used never did extend to the political constitutions, or election laws, of the Boroughs, but merely
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to their exclusive rights of incorporations within Boroughs, their exclusive rights of foreign trade, and their rights of heritable jurisdiction; and it is worthy of remark, that the very proposition offered by the Scottish Commissioners at London, relative to the *rights and privileges* of the Boroughs, is introduced as one of the provisions made for the *Judicatures* of Scotland, as appears from Defoe, p. 148-9. The words of the proposal are, "and as to the *Judicatures within Scotland*, the Lords Commissioners for Scotland do propose as followeth." Then there are subjoined provisions relative to the Courts of Session, Justiciary, Exchequer, Privy Council, the heritable jurisdiction in private families, and the last of all is the article relative to the rights and privileges of the Royal Boroughs.

Objection 4th. The principle of the Bill, though it may be true in pure speculation, is untrue, or impossible in practice.

Answer. The principle of the Bill is nothing more than to alter the self-election of the Juntos; to give

give the right of election of Common Councils, to decent Burgeses of certain descriptions and qualifications; and to provide a jurisdiction of accounts—Are these objects, so apparently simple and useful, untrue or impossible in practice? The opposers of Reform are certainly not serious in thinking so. It is only necessary farther to remark, that about 9000 Burgeses, fully acquainted with the local circumstances of their different towns, have declared, with one voice, that the scheme of Reform is *both useful and practicable*.

This objection originating only from a paltry misrepresentation of the language and sentiments of the Burgeses, has been already answered, though it might, with more propriety, have been overlooked, as meriting no attention.

It is the evident meaning of this objection to alarm the members for English Boroughs; but the Boroughs of England are in a different situation, and the distinctions between them and those of Scotland, have been already observed.

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It is only necessary to take notice of one assertion made in the Cafe, under this head.

Cafe, page 28. It is said, " a great number of the constitutions of the Common Councils of Scotland are already in a degree popular. The elections are made by a poll of the several companies of Mechanics, or Handicraftsmen, who form Subaltern Corporations in the town."

If by this is meant that the election of Common Councils and Magistrates, in a great number of Boroughs, is made by a poll, the assertion is certainly not true; for there is not a single Borough in Scotland in which such election is made by a poll of the Burgeses. There are, indeed, about two or three Boroughs in which the Burgeses, from leets or lists of men, given them by the Magistrates for the time being, are allowed to elect the Magistrates for the ensuing year; but to say that this is a free or popular election, is an insult on common sense; for the Burgeses can elect none but those given them by the Magistrates, in a list.

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But, perhaps, the objectors mean, that the several Companies of Mechanics have the election of their own Deacons or Chairmen. If that be their meaning, it is certainly nothing to the purpose; for in some Boroughs few or none of the Deacons so elected have right to sit in Council; and in other Boroughs, where a part of the Deacons sit in Council, they are only chosen from lists given by the Magistrates and Council; so that there is, in fact, no freedom of election of any kind existing in the Royal Boroughs of Scotland.

This objection has been already fully answered. It is built on the ridiculous and groundless averment, that the present Reform is the scheme only of the Craftsmen or Mechanics, with a view to suppress the rights, and sink the importance of the Guildry, or Merchants.

The Letters which passed on this subject between the Agent for the Town Councils and the Committee of Reform, at least the letter from the Committee are not fully stated in the

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Cafe; they are therefore annexed to these observations, and will speak for themselves.

Objection 8th. This objection says, that the Burgeffes have not been able to prove the existence of any evil which requires a remedy.

Answer. The answer has been already very fully given, both in the present paper, and in former resolutions of the Committee.

The Objectors speak of the evils of popular elections, and give as an example, what happened in Edinburgh, on occasion of the popular election, which became requisite, to restore the Magistracy after the rebellion in 1745. But what are those mighty mischiefs which were so deeply felt in Edinburgh? — Why, nothing more, according to the objectors themselves, than that some of the friends of the candidates were a little angry with one another! Is this a reason for abolishing the rights and freedom of Election? If that superficial policy were to
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have effect, it would put an end at once to the freedom of the Constitution of Great Britain, by destroying every degree of popular election both in Counties and Boroughs!

Since the popular election at Edinburgh has been brought in view, it is proper to inquire, who the Chief Magistrate was, whom the voice of the people promoted to honour on that occasion? It was the celebrated George Drummond, who, in the list of Scottish Magistracy, will not be pretended ever to have had a superior. This was the man who planned and executed the establishment of the Royal Infirmary of Edinburgh, which, as a school of medical science, and as an asylum of distress, does the greatest honour to the country. This was the man who, if the voice of fame is not greatly mistaken, planned the new city of Edinburgh, together with the other elegant and extensive improvements which of late years have served to ornament the capital of Scotland. It cannot be denied, that those who have been concerned in accomplishing these useful and ornamental works, are

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entitled to a share of praise ; but it must be allowed, that they are only the hands employed in carrying into execution the extensive designs of that Chief Magistrate, who, in a popular election, was the object of popular choice.

Objection 9th.

This objection is expressed in the following words: " Each of the Royal Boroughs is in itself a distinct body corporate, established by law, and many of them by special charters from the Sovereign. Some of them were erected upon the application and by consent of local Superiors ; such are Inverary, Campbeltown, Wick, &c. but the consent given, was conditional, subject to special rights reserved to the families of the Superiors ; and, at this moment, it is as adverse to law, as it was at the Revolution, to attempt the destruction of the rights and privileges of one or all of these bodies, contrary to their liberties and charters, and without a pretence of sentence, surrender, or consent."

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All this proceeds on an evident error. Answer. It supposes, that the intention of Reform is to annihilate the Corporations ; an idea which has not yet entered the minds of the Burgeffes.— The sole object of the Reform is to regulate the manner in which the police of the towns is to be conducted, and their common property and affairs managed, without encroaching, in the smallest degree, on the exclusive rights and privileges of the Corporations. To maintain these in their full extent and effect, is the evident interest, as well as inclination, of the Burgeffes : but they cannot believe, and could never imagine, that it is a *right or privilege* of Incorporation, to have self-elected administrators, who are independent of their choice, and not bound to render them any account. Such a system of government has been found to be productive of abuses which have now reached a degree of enormity that has called forth the public indignation. *Nine thousand* Burgeffes, who every day witness the abuses of which they complain, demand redress of these grievances ; yet they are told, that *self-election* of Magistrates, which

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which has produced all these abuses, is a *sacred privilege* of Incorporation, which cannot be taken away, without violating the Constitution!

In the present objection, the Town Councils have obliquely alluded to the Charters of Erection and Incorporation, as if they were desirous to rest an argument on them, but without venturing to do it in a direct manner.

The Charters are of two kinds; original Charters of Erection and Incorporation, and Charters of Confirmation, of later dates. The Delegates have had no occasion to be acquainted with all the charters of the different towns.— Such *original* charters, however, as they have known, were conceived in favour not of the Town Councils, but of the Burgeses at large. They have had access to see copies of twenty-seven charters, granted to so many different towns; most of these, in place of affording argument in favour of the Town Councils, strike directly against them.

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Of the twenty-seven charters to which the Delegates have had access, seventeen are conceived, *per expressum*, in favour of the inhabitants and free Burgeses, or of the Burgeses and Community, or of the Burghers and Freemen, or of the inhabitant Burgeses, or of the Provost, Baillies, Counsellors, Burgeses, and Community. Of those seventeen charters again, so conceived, *many give an express power to the Burgeses to elect the Magistrates and Common Councils, or Officers of the Borough.*

Five of the twenty-seven charters are conceived in this form; In favour of “the Provost, Baillies, Counsellors, and *Community.*”

Three only of the charters which have been seen by the friends of Reform, empower the Councils to elect their successors; these three are posterior to the act 1469; and in one of them (Campbeltown) the Counsellors and **Magistrates**

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gistrates are to be chosen from leets, furnished by a great family.

Two other charters of the twenty-seven, viz. those of Inverary and Wick, empower the Burgessees and Inhabitants to elect the Magistrates and Councils, but from leets to be given them by two great families in their near neighbourhood.

The present Reform, therefore, is not, as its enemies would insinuate, inconsistent with the chartered rights of the Boroughs. On the contrary, it is evident, that if the tenor of the charters were to form the rule, the determination would in general be given in favour of the Burgessees, to whom, *per expressum*, the charters are in general granted, with a special power in many of them to the Burgessees or Freemen, to elect the Common Councils or Magistrates.— This power the Burgessees of all the boroughs enjoyed prior to the act 1469, which is evident from that very act itself, and is supported by collateral evidence, already referred to.

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This objection, though stated by itself, is Objection recti. properly no more than a branch of the one immediately preceding.

The Town Councils, abundantly sensible that the terms of the charters being mostly conceived in favour of the *Burgessees* or *Community*, make directly against their argument, have endeavoured to explain them away, by assertions, without authority, and by criticisms, which are not warranted either by the words or spirit of the grants. They affirm, that the word *Burgessees* does not mean the ordinary Burgessees of a town, but only a *select number*, called Capital Burgessees; and that the word *Community* does not mean the collective body of the Burgessees at large, but only the governing part of them, viz. the Magistrates and Councils.

These ideas are refuted by the very tenor of Answer. the charters themselves: several of the charters are conceived in favour of the Provost, Bailies, Counsellors, and *Community*—Here it is impossible that the word *Community* can signify the

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governors, for they are expressed in the charters by their proper names; other charters are conceived in favour of the *Provost, Bailies, Burgeses*, and *Community*; here the term *Burgeses*, cannot possibly mean the capital or governing Burgeses, for these are expressed by their own proper names; in short, there cannot be a doubt that by the general expression of Burgeses or Freemen in the charters of the Scottish Boroughs, the ordinary or common Burgeses were meant to be understood.

The only authority cited on the other side, is that of Brady, a Doctor of physic, who was generally reputed to have enjoyed a pension from the Court. Mr. Brady, indeed, says that the word *communitas*, or *community*, or *commonalty*, meant not the body of the ordinary Burgeses, but the governing part of them: He has, however, collected and adduced evidence, which, when examined, will be found fully sufficient to destroy his own hypothesis: He has been candid enough to mention five different resolutions of the House of Commons,

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about the year 1627, which completely overturn his whole doctrine: his observations on those decisions are remarkable.

“ By these five instances,” says Dr. Brady, “ it appears how perplexed and conjectural “ the opinions of the Committee and resolves “ of the House of Commons were concerning “ the right of electing Burgeses to serve in “ Parliament, and the persons in whom it was “ lodged. *They judged the Communities or commonalties of Cities and Burghs to be only the “ ordinary and lower sort of Citizens, Burgeses, “ or Freemen in general. The ground of this popular error,*” continues the good Doctor, “ was, that this Committee, notwithstanding “ the two great antiquaries, Sir Robert Cotton “ and Mr. Selden, and the Oracle of Law, so “ called, Sir Edward Coke, were members of “ it, *did not truly understand the meaning of the “ words communitates civitatum et Burgorum,* “ the commonalty of Cities and Burghs; “ which always signified the Mayor, Aldermen, and Common Council, where they “ were

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“ were to be found, or the Steward or Bailiff,
 “ or, in short, the governing part of Cities
 “ and Towns.”

Here the Doctor admits that his hypothesis is contradicted by five different resolutions of the House of Commons; but he ascribes their decisions to this, that although they were aided by all the learning of Sir Robert Cotton, Mr. Selden, and Sir Edward Coke, they did *not really understand the meaning of the words Communitates Burgorum!* Hence we are to understand, that what could not be discovered by the extensive researches of the most learned antiquarians, or the acuteness of the most profound Lawyers, on a subject of legal discussion, was at once laid open by the painful industry of a Doctor of physic, who was hired by the Court! and accordingly the Doctor proceeds, with all the gravity of his profession, to prove his position, by a production of a number of examples, almost every one of which contradicts himself, and overturns his hypothesis. At present, one only of the examples which he

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cites shall be mentioned: it is the writ directed to the Mayor and Bailiffs of Exeter for the choice of Burgesses to serve in Parliament, and the answer to it. The writ, so far as quoted by Brady, was in these words:

“ Vobis præcipimus firmiter injungentes Brady, p. 65.

“ quod duos Burgenses de Provectoribus,
 “ Discretioribus & Magis Expertis Burgen-
 “ fibus Civitatis prædictæ, de assensu ejus-
 “ dem Civitatis, sine Dilatione Eligi, &c.,
 “ sufficientem potestatem habent,” &c.

The return was in the following terms:

“ Responsio Roberti de Brideport, *Majoris*
 “ civitatis Exon, & Ricardi Oliver & Tho-
 “ mæ Spicer *Ballivorum* ejusdem civitatis,
 “ ac *communitatis* civitatis prædictæ talis est;
 “ Quod ipsi eligerunt prædictos Robertum
 “ de Brideport & Robertum de Hugheton
 “ Burgenses dictæ civitatis ad faciendum
 “ secundum Tenorem istius Brevis.

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According to that return, it was made by the *Mayor, Baillies, and Community* of the Borough. In this example, therefore, the word *Community* cannot possibly signify the Governors of the Borough; for they are mentioned by their proper names of *Mayor* and *Baillies*. It must therefore necessarily mean the ordinary *Burgessees*. Some of the other examples are equivocal, and prove nothing. But many of them are of the same kind with the one above-mentioned, and in the same manner refute the Doctor's own assertion; so that all the evidence he has brought, wherever it speaks clearly, proves directly against himself.

It is, therefore, in vain that the Town Councils, in the present case, appeal to the authority of Dr. Brady, in support of a proposition, disproved by the tenor of charters, and the obvious meaning of words, as well as the weighty opinion of Mr. Selden, Sir Robert Cotton, and Sir Edward Coke.

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The last objection relates to the particular re-^{Objection 11th} regulations in the proposed Bill.

This objection has already been adverted to. ^{Answer.}
The objection is premature and useless, because, as already observed, if the principle is approved of, the proper regulations for carrying it into execution can easily be supplied by the wisdom of Parliament, if those proposed by the Bill should be found improper or defective.

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N. B. After the foregoing Observations were printed and ready to be cast off, the Delegates were furnished with a *new production*, on the part of the Magistrates, called An *Abstract of Facts*, which exceeds all their former publications, in error, calumny, and misrepresentation; but which shall receive an immediate satisfactory answer by a few animadversions on the material articles it contains.

A P P E N D I X.

No. I.

A Letter from a Burgess of Aberdeen, to the Agent for the Town Councils of the Royal Boroughs. Containing short Remarks on some of the Abuses existing in the Boroughs, and upon a State of Facts published in behalf of the Councils.

S I R,

AS you took the trouble to mention your having had a letter from Aberdeen upon the subject of what relates to that Borough, contained in the Resolutions of the London Committee for Reform, I am much inclined to wish that your information respecting the Town, of which I am a Burgher, may be as complete as possible; and for that purpose I take leave to send you a small volume, containing the proceedings of the Burgesses of Aberdeen, published by authority of the Committee of the Burgesses of that city appointed to conduct the business of Reform, and in which you will find a good deal of what relates to the subjects

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jects referred to in the Resolutions of the London Committee. Upon all the points mentioned in that paper, particularly the taxation for Police, and the extra assessments in name of Cefs, I can assure you, that my fellow citizens wish for nothing so anxiously as to go to issue with the Magistrates; and when a proof is led, it will then appear, whether the representations of the Magistrates, or those persons who are employed to act for them, or the statements of the Burghers, are most agreeable to truth. In the volume I have sent you, you will find several memorials upon the subjects of taxation, and the assessment for cefs; and you will perceive that these are founded upon the very Acts of Council which the Magistrates and Council have themselves framed without the participation of the Burgeses. When you read these, and consider the treatment which the Burgeses have met with, after such a display of temper and moderation on their part, I think you will not be disposed to say, that the Magistrates have either made a prudent or moderate use of that power with which they have conceived themselves to be invested. The gentlemen who examined the state of the Well debt are, to my certain knowledge, men both of character and abilities; and upon their finding that this debt was overpaid by the citizens to the amount of 5000l., does it not appear a little strange that the Magistrates should continue to assess the inhabitants to the extent of near 200l. annually, as the interest of the amount of a debt already much more than extinguished? Did not equity rather require that the citizens should have had 250l. per annum repaid to them from the Public Funds, as the interest of what had been thus improperly

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perly drawn from them? I can see no good reason why they should not, but that the uncommonness of the circumstance in Magistrates returning money which they had once got possession of, would have been a thing so much out of their usual way, that, if it had really happened, it would hardly have gained credit with the Public. I find, if I conceived your meaning right the other day, that you have been misinformed respecting the decisions you mentioned in the case of the Aberdeen taxes; I will therefore tell you shortly how that matter stands.—When the Burgeses discovered, by examining the public accounts, the real state of the Town's debt; the abuses in assessing for the land tax; and particularly the tax for water, &c., the Memorial was presented, which you will find in the Appendix, page 49. I refer you to this, in connection with the other Memorials upon these subjects, and appeal to your candour, if they ought not to have met with a different fate? The citizens had taken every step which became their situation, without going to law; but finding their very reasonable representations neglected, and even themselves insulted in that public assembly, in which it was absurdly pretended that they gave authority to tax themselves, they paid the land tax, but refused to pay those taxes which were imposed, and continued without their consent. An action was of course brought by the Magistrates against the citizens, before the Sheriff Substitute, who is also Deputy Town Clerk. That Judge awarded payment, with half a crown of expences upon every citizen who refused. The citizens appealed to the Court of Session, and in the mean time paid the amount of the assessments,

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without the expence awarded by the Sheriff; but this they did under Protest. A summons of declarator was raised at the instance of the citizens before the Court of Session, that the Common Council of Aberdeen might shew what right the Magistrates of the Boroughs of Scotland have to exercise that authority which resides alone in a British Parliament. The matter is still, I believe, in a state of suspense; nor do I know that the summonses, although raised, were ever executed. By this you will perceive, that the Burgeses, far from *acquiescing*, paid the taxes under protest. But I will admit for a moment, that they had paid the taxes without that legal expression of their disapprobation. I will suppose that one hundred poor men affected each to the extent of from 5 to 10*l.* by this illegal taxation, had been summoned before the Sheriff, and threatened with the terror and expence of a prosecution,—it is evident that these poor men were in no condition to combat the Magistrates, who had the command of the Public Funds, and who, of course, would go to law with the citizens with the public purse of the community. But in this case, is the exaction, if thus illegal, less oppressive, because the poor men are *obliged* to submit; or, rather, does not the oppression, therefore, call more loudly for redress? Although I have stated this as a supposition, it is, in many instances, precisely the fact; and it is peculiarly so in another case of taxation, by which the Magistrates and Council raised the dues of admitting Burgeses from 15*l.* to 26*l.* In this the Council acted merely by their own authority, without consulting a single member of the community; and so partial was this tax, that it was only made

made to apply to the shopkeepers and mercantile part of the Burghers, while the incorporated tradesmen, or artificers, who have the privilege also of being shopkeepers, were permitted to continue to pay the old dues of admission. The objects of this new and arbitrary tax, in its prosecution, in the first instance, were thirty or forty industrious young men, who, after having sustained the weight of the Magistrates for some time in the Court of Session, were unable for the present to bear the farther expence of an appeal to the House of Lords, although the measure was then, and is still, reprobated, as oppressive to commerce and industry, and of course highly impolitic, by every liberal-minded man in the country. Of the candour of the Magistrates and Council, or those who have acted for them, we have pretty strong specimens in the paper given in for them in the Court of Session, on the subject of taxes. With a view to give an unfavourable opinion of the citizens to the Court, it was there said, “that they had refused payment of the *King’s cess* for *last year*, and had done so for the *present*, with a view to distress the Magistrates,” at a time when the one had been paid many months, and the other not actually apportioned.

“The Burghers, it was likewise said, while they had recommended œconomy, and urged the propriety of expending no more than the income allotted to each article of Police, have had the *modesty* and *inconsistency* to join in a petition to the Council, desiring them to expend above one hundred pounds in making a paved foot-path along one of the streets.”—The truth is, that the Council were applied to merely out
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of compliment and respect: the foot-path was to be made by the subscription of private citizens. The Council were asked if they would contribute a part; and they answered, they would *lend* 20l. in June, if they were paid back by assessment in September;—and the work was of course actually begun and completed at the expence of the citizens.

If any thing was wanting to complete these instances of *candour*, and to shew the true spirit of Magistrates, it would be amply supplied by their relating in their paper, before the Court of Session, with reference to “the reformers of the present day,” as they are pleased to call them, the *infamous* story of John Innes, a reputable citizen of Aberdeen, who, in the reign of Charles II., had been ruined by their predecessors, for daring to take a decent Protest in the face of their illegal, but affronted authority. This good citizen, it is said by the Magistrates, “took precisely the same ground, and used the same language which is now adopted by the reformers.”—“That an account may be publicly given in an head Court, how all former taxations, from April 1665 years, to April 1676 years inclusive, have been *waired* (expended) and employed; that the same shall be made appear by the Treasurer’s books, that the said taxations have been necessarily and profitably bestowed, and given out for the public good, and defraying the burdens and necessary affairs of the town, we may hereby be encouraged to condescend to a new taxation.”—This temperate and reasonable Protest was *the crime* of John Innes against the Magistrates of Aberdeen in 1678.

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Let us hear the account of this *black* business, and the opinion of their successors respecting it in 1787. “Mr. Innes, say they, addressing themselves to the Court of Session, was also pleased, like the reformers of this day, to offer payment of His Majesty’s subsidy, and was very liberal of advices, and other protestations, as to the mode of taxing, and what articles should, or should not, be taxed. What was the consequence? The Magistrates, more irascible than their successors, (who have had, and tamely submitted to ten times as much provocation) *ordered the same Mr. Innes to prison, fined him in a large sum, and disfranchised him of his right of Burghship.*—This sentence was confirmed upon appeal to the Privy Council of Scotland, who to their other prerogatives of a Star-Chamber complexion, joined the most extensive powers of a criminal Court.—“The above judgement of the *Supreme, Criminal Court* of the country,” add the Magistrates, “restored peace to the Borough, the taxation was peaceably paid by the citizens, and from that time till the era of the present Reformers, the town has not been disturbed by any such *tumults or seditious proceedings.*”

It is in this manner that the Magistrates of a Borough talk of taxation imposed by their own authority; and it is in this manner, in the end of the eighteenth century, that they speak of the means of enforcing it.—To reason upon it would be to insult the feelings and the common sense of the person to whom I address myself.—The story of John Innes, more at large, is to be found in the volume now sent you,

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you.—[Vide farther Proceeding of the Buregges of Aberdeen, page 72.] You will likewise find every thing stated from Aberdeen in the Resolutions of the London Committee, contained in this volume, in papers and memorials presented to the Council of that town, subscribed by many names, and I will venture to say such names, who for every quality and circumstance which can render men respectable, are not inferior to any name either in the Magistracy of that or any other town.

It is with extreme concern that one is forced to observe men, who, though many of them, as individuals in private life, are agreeable members of society, yet in a collective capacity, and fettered as they are with the prejudices of an arbitrary system, shew, in a manner the most obvious and unequivocal, a disposition so inconsistent with the spirit of the constitution, and the enlightened genius of the present age—It is difficult for those who have not been witnesses of it to conceive an idea of the high tone of authority with which the Magistrates of Boroughs express themselves. Respecting the taxation imposed, in the exceptionable manner stated in the Resolution of the London Committee, by the Magistrates of Aberdeen, they have furnished repeated proofs that they will enforce the payment of such taxes, without any distinction, by the same compulsory means that the Legislature has judged proper to enforce the payment of the land tax, that is, *by quartering bodies of military men in the houses of the citizens.* In proof of this assertion, we shall copy, *verbatim*, an advertisement, by authority of these Magistrates, published in *the Aberdeen Journal*, a weekly newspaper, of the 20th of May, 1788, with-

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out a single remark upon it, as the inferences to be drawn from such a publication will naturally occur to the mind of the reader*.

The objections which you say have been made to the abuse stated in the Resolutions of the London Committee, by the Councils of other Boroughs to which they refer, is nothing more than I think might have been expected. People who think such abuses carry a certain degree of imputation against them, will no doubt make the best defence of which they are capable; especially if the measure now pursuing by the united efforts of the Burgeses of Scotland tends to shake that power and influence which they have long been in possession of. But it should be remembered that these abuses, with many others not mentioned in the Resolutions of the London Committee are stated by the Committees of the different towns to which they apply, nor can a doubt be for a moment entertained that these will be ready to stand forth in support of what they have thus so particularly advanced.

* “ By authority of the Honourable the Magistrates of
“ Aberdeen:—Whereas His Majesty's subsidy on the trade
“ and heritage of this Burgh, for the year from Martinmas
“ 1786, to Martinmas 1787, and town taxes for street,
“ water, and light money, from Whitsunday 1787, to Whit-
“ sunday 1788, are now due, Notice is hereby given to all
“ persons liable in payment of these taxes, to pay in the same
“ at the Taxation Office in the course of this week, where
“ attendance will be given each day from ten to two o'clock
“ before noon, and from three to five afternoon, certifying
“ all those who neglect to comply, that warrants of quartering
“ will be issued against them upon Monday the 26th current, in
“ terms of law.”

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I had proceeded thus far, and where I meant to conclude, when a paper was put in my hand, under the title of "State of Facts upon which Objections in Behalf of the Royal Boroughs of Scotland are made against the Bill offered to Parliament for a pretended Reform."—which paper, I find, is ascribed to you, but which I cannot believe; for, I am sorry to say, it abounds with errors, in fact, to a degree by which I am astonished. I cannot conceive, for instance, where this gentleman could learn "that the ancient constitution of the Boroughs of Scotland was not free, and that the Burgeses never exercised the right of electing the Magistrates and Common Council." This is really a bold position, and if I had been of *his Council* I certainly should have advised him to have burned the "*Leges Burgorum*," before he had asserted it. We have at Aberdeen records as far back as 1300, and in these the annual election of the Magistrates and Council by the *Community* is regularly recorded.

Left this gentleman should be disposed to give his usual definition of the *Community*, their names are also recorded annually to the amount of many hundreds. He has said, "That the *old statute* of James III. gave additional privileges to the Burgeses and Citizens; and that we, in asserting that it took the rights of electing the Magistrates and Council from them, have either committed a most egregious mistake, or have ventured upon a bold misrepresentation." This position of his is *bold* with a witness. The very law which *took away* their privileges from them gave them an extension of freedom! Nay,
Sir,

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Sir, but this really is too much. Can this gentleman imagine, nay, I am convinced he does not believe, that the good people of England are so ignorant, or so credulous, as to gulp any thing so monstrous.

He has likewise said, that the law of James III. 1469, "was cordially received and generally complied with;" and this he has said, as usual, without any evidence. I have already spoken of the Records of Aberdeen, and I am ready to prove from them, that so far was that law from being complied with in that town, that for 120 years after it passed, the Burgeses at large continued annually, peaceably and undisturbed, to elect their Magistrates and Council, and had a vote in all public matters, until an artifice of James VI. by the common trick of his *Decreets Arbitral*, cut off their privileges by a dash of his pen, and left them in the state they are now in. I know not what friendly disposition James III. might have to the Burgeses, as is asserted in page 12. James, I believe, was in minority when the act 1469 passed, and he was all his life long the dupe of Lords and favourites, who were enemies to the Burghers, as all our old acts of Parliaments shew. It is certain that whatever disturbances were in Boroughs were generally excited by the great Lords, whose influence both at Court and in Boroughs was very considerable, and not unfrequently variously exerted as the rude and contentious policy of these turbulent times prompted the fluctuating views of different parties. If, however, James shewed any favour to towns, it could only be, not to the Burghers, but the Councils, who were either his creatures or those of his courtiers.—"The *phrensy*
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“ and *madness* which has of late taken possession of “ certain men in Scotland,”—according to this pleasant writer, exists alone in his lively imagination.—But for such phrensy as it is, it is *very general*—“ The gay, the grave, the lively, and severe,” are all affected by it.—The petitions on the table of the House of Commons are subscribed by *all* the Burgeffes of many towns, and in some of the largest towns in Scotland, such as Perth, Dundee, Stirling, Dunfermling, Arbroath, Montrose, &c. not only are all the Burgeffes *Reformers*, and supporters of reform, and of course in this state of Phrensy, but in many of these towns half the councils are united with them. Inverness too is precisely in this situation, and several others. The case then stands nearly thus—The petitions on the table of the House of Commons have the names of almost 10,000 actual Burgeffes, Merchants, Manufacturers and Artisans.

To these I might add from 50,000 to 100,000 more in the towns of Scotland, who all earnestly wish for the reform we request; and I will add to these every respectable, independent, and intelligent man in the country, unconnected with the Councils, and who wishes well to the industry and prosperity of the Boroughs of Scotland, and the general interests of the Country.—With what reason then, nay, I will say, with what truth, can it be said that “ the “ Persons complaining have, *in general*, no concern “ with the Boroughs, and that the majority of them “ are *Gentlemen of the Law*.”—That several Members of the Committee of Convention are so, we are very ready, and very proud to own. These gentlemen, you
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well know, were elected into their present situation by the unanimous suffrage of the Convention, composed of Delegates from the Burgeffes of every Town which had declared for reform—and the abilities, integrity, and love of liberty, which distinguish those gentlemen, do honour to the choice of the Burghers.—I had almost forgot to mention the concluding paragraph of a larger paper, of which the *state of facts* is the essence published last year. The quotation from a gentleman eminent in the law, to the Secretary at Aberdeen, runs thus: “ Speculative arguments generally lead men “ into erroneous opinions and practices,—The more “ ingenious, subtile, or declamatory, so much the “ worse.” Experience is the sole ground of useful “ knowledge, the conduct of all human affairs, whether public or private.” Thus is this gentleman *possessing every quality honourable to human nature*, who has, in this very letter, from which this *partial* quotation is taken, spoken in terms of the highest approbation of the plan of reform, now the subject of Parliamentary application, made to speak a language entirely opposite to his intent and meaning.—The impropriety of this conduct was last year pointed out in the remarks of the Delegates upon “ the Case” but it has been this year reprinted in the same words, perverting the sense of the whole in a most shameful and uncandid manner, with this pitiful subterfuge that, “ it is an independent truth, worthy of the learned “ writer, and that the objectors are entitled to give “ the axiom its full natural force, and to argue that “ it goes to a complete overthrow of their scheme!” The unworthy nature of such an attempt will afford to the Public some idea of the cause, which stands in
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need of such support; and that public will also judge both of the *intention* of those who have thus quoted, and of the solid sentiments of the honourable writer, from the following short passages from this excellent letter.—“ I am very clear that there are the strongest and justest reasons to desire a reformation.—The forms of government in our boroughs are various; some of them abominable; all defective.—The Burgh revenues are generally embezzled or wasted by extravagant or unnecessary entertainments. Persons not resident in the Burgh, are admitted into the Magistracy and Council, and, in conclusion— I am clear, we can have no good *law*, without an express provision, that none shall have right to vote in elections, but actually resident Burgeses, who pay *scot* and *lot*, and are members of the Guildry, or of one or other of the Incorporations.”—These sentiments, so deeply founded in common sense, sound experience, and the principles of civil liberty; so congenial to the principles of the British constitution, and according so closely with the *ancient constitution* of the Boroughs of Scotland, have been adopted by the fullest concurrence of the Burgeses of Scotland in General Convention.—The claim therefore, *does not rest merely*, as this writer affirms, “ upon high theoretic principles—the original and unalienable rights of human nature.” The uncommon pains which this gentleman has been at to shew that the very first paper published on this subject was written by a lawyer, may, or may not, be true; but is of itself of very little consequence.—Yet, joined to the attempt to make the Burgeses of Scotland chargeable with the speculations of individuals, is a conduct

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so extremely uncandid, as must unavoidably convince a discerning Public, that a man drove to such shifts, is indeed at a very low pass, to support the cause, he has thus, at all hazards, undertaken to defend. As a farther proof, were such necessary, that the claim does not rest upon *high theoretic principles*, but upon *present beneficial practice*, it may not be improper to add that the Burgeses of Stirling, by a new charter, granted by his Majesty on the 23d of May, 1781, received in substance, what the Burgeses of Scotland now “ *claim*,” and the reason given in the charter itself is, “ that it is to prevent abuses to which the old practice was liable, and for restoring the peace and good government of the Burghs.”

The former set or custom of election for Stirling, which was among the best of the present constitutions, is thus related in the new charter:—“ Eleven Members were changed or turned out of the Council yearly; but the Guildry or Merchants had no choice in the Members brought into Council of their own number; neither had they any choice of their own Dean of Guild, he being elected and presented to them by the Common Council. That although no person could, by election, be continued in the Magistracy of said Burgh longer than two years at one time, yet one Magistrate might, and by practice often did, continue in Council, as one of the ordinary Merchant Counsellors, or be made Dean of Guild, and so remain in any of these offices for another year, and could be again re-elected as Provost or Baillie for another year, whereby the leading men in the Council had it in

“ their

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“ their power to perpetuate themselves in office, and
“ to manage and do in all matters of the Burgh as
“ they thought proper.”—To remedy the abuses in-
cident to such a constitution the new charter was
granted; and so conscious are the Burgeses of Stir-
ling of the benefits derived from it, that, upon the
14th of April, 1787, they recommended “ to Sir
“ Thomas Dundas, Member for the County, and Ma-
“ jor Campbell, Member for the District of Burghs,
“ to give their support to the Bill proposed to be brought
“ into Parliament for the Reform of the internal Police
“ of the Burghs,” considering “ that the late alteration
“ in the sett of the Burgh has been highly beneficial to the
“ inhabitants*.”

After such evidence, in refutation of such ground-
less assertions, to argue farther upon the subject would
be a waste of words. There is one passage, however,
which, from its singular effrontery, deserves notice:
—“ All the noise,” says this Gentleman, “ and dis-
“ turbance has been raised by men who had no con-
“ cern with Boroughs, or interest with Boroughs;”
and “ that the cause is supported and carried on by a
“ stranger influence, with views diametrically opposite
“ to those which are publicly avowed,” is an assertion
palpably untrue, and from what has already been
stated, contrary to the conviction and sentiments of
every Burgeses in Scotland, and unsupported by the
slightest evidence.—There never was a public ques-
tion agitated in any country on which men’s opi-
nions were more decided than the question of Reform
is in the minds of the Burgeses of Scotland—never
a question more calmly considered, more moderately
and reasonably determined upon, nor was ever a re-
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quest presented to a British House of Commons that
will be more perseveringly adhered to.

I am, SIR,

Your most obedient, humble Servant,

A Burgher of Aberdeen.

A P P E N D I X, No. II.

*Letter from the Agent for the Town Councils to the Secre-
tary of the Committee for the General Convention for
Reform at Edinburgh.*

SIR,

I HAVE lately been told that some alterations
were intended upon the Bill which was endeavoured
to be brought into Parliament last session; and that
a new Bill, so varied, is intended to be presented.

I wish not to occasion you any delay in your busi-
ness; and that nothing of that kind may be necessary,
I submit if it will not be best to give me timely notice
of the nature of these alterations.

There was a point upon which parties differed
widely in London.—We said that the number of
tradesmen in every town, whose privileges were pre-
served in *statu quo*, were very much inferior to the
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number of new voters proposed to be entitled by the Bill under the character of Burgeses, and consequently we charged your proposal with partiality and inconsistency.

The fact was denied, on your side, in very strong terms, in an additional paper delivered to the Members of the House of Commons after the Case for the Royal Boroughs was published.

To prevent such a difference upon a fact so material being resumed, I am now ready to take joint measures with you for having it ascertained in the chief Royal Burghs, and shall concert the method to be taken as soon as you find it convenient.

I am much obliged to you for the printed copy of the sets, as it saves me a great deal of trouble. I am now collecting the charters of the Royalities, in order to ascertain the dates and privileges of the Erections. I shall communicate to you any information, or shew you any paper I am possessed of, relating to the business.

I am, &c.

Edinburgh,
29th Nov. 1787.

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APPENDIX. No. III.

Letter from the Secretary of the Committee of Convention for Reform, to the Agent for the Town Councils.

Edinburgh, 8th January, 1788.

SIR,

HAVING laid your letter of the 29th Nov. before the Committee, I am directed by them to make the following answer.

In the first place, it has not occurred to the Committee at present necessary to make any alteration on the heads of the Bill, which was last year intended to be brought into Parliament. If any alterations at all are made, they will fall to be done in Parliament, or by the Committee of Reform at London, when leave is given to bring in the Bill.

In the second place, as to the difference in point of fact, to which you allude, the averment made in the case for the Royal Boroughs, was, that by the scheme of Reform proposed, the interest and power of the Trades were rendered superior to those of the Guildry or Merchants, who were intended to be almost entirely sunk; so that the new plan of Reform was the scheme of the Trades only, and not of the Burgeses at large.

That averment was indeed denied in very strong terms, and with justice, by the friends of Reform; because

because it was directly adverse to the fact: and this was demonstrated in the clearest manner in the paper you mention, delivered to the Members of the House of Commons, after the case for the Royal Boroughs was distributed; nor can the Committee at present conceive how it is possible to contest the truth of the fact, as stated by their Delegates in that paper.

At any rate, while the Town Councils of the Royal Boroughs, and those who act for them, profess an intention to oppose even the leave to bring in the Bill of Reform, it is certainly premature to enter into any inquiry concerning the propriety or impropriety of the scheme of Reform, which that Bill contains.

But if the Town Councils shall agree, without objection, to allow the Bill to be brought into Parliament, then most certainly the supporters of Reform will be ready and willing to join issue with the Town Councils, in order to bring to light, and ascertain, beyond a doubt, every fact which may appear proper or necessary to inform the mind of the Legislature on the subject of the proposed Reform.

I am, &c.