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A  
 L E T T E R  
 TO THE  
 RIGHT HONOURABLE  
 W I L L I A M P I T T.

S I R,

BY direction of the Burgesſes of  
 Scotland, I did myſelf the honour, in the  
 month of February 1787, to communicate to  
 you the objects they had in view, in their  
 propoſed application to Parliament for a re-  
 form in the INTERNAL GOVERNMENT of  
 the Boroughs. It was the ardent wiſh of  
 every Burgeſs in Scotland, that a matter,  
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which so nearly interested what they considered as their best rights, should have been introduced to Parliament under your patronage, and supported by your abilities. They flattered themselves that those talents, which on many occasions you have exerted to reform the constitution of this country, would have been displayed in their favour; not only because the measures proposed were essentially connected with the prosperity of the Boroughs in Scotland, but also because the Reform they solicited appeared so consonant to those principles of freedom, which you had so often professed.

It would be injurious to the respect in which I hold your character, to consider your silence as a mark of disapprobation of the proposed application to Parliament. I wish to account for it from the attention you must necessarily bestow on the variety of  
business

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business incident to your situation. But although this may apologize for the little regard you have thought proper to pay to the solicitations of a numerous and respectable body of citizens, oppressed with grievances unheard of in a free country, I should certainly be wanting in the proper discharge of the duty I owe to the Burgeſſes of Scotland, if I could hesitate in again addressing you on a subject, in which their interest and wishes are so nearly concerned; and while I regard, with due deference, your situation as First Lord of the Treasury, I must, at the same time, attend to what I owe to my constituents, the sentiments of my colleagues in the delegation, and the opinion of the London committee for conducting the Reform.

As I persuade myself that the papers which I formerly transmitted to you are still in your possession, I shall not detain you, by recapitulating their contents. But

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I must beg leave to observe, that, had they met with the respect which I am bold to say they merited, I should have had no occasion to trouble you with the present public address. Your silence, however, having rendered this mode of correspondence my duty, I now take the liberty of explaining my sentiments on the subject of the proposed Reform, at greater length than in my former letter.

I feel, I confess, a partiality for my country, and I glory in expressing it. I see, with pleasure, a spirit of freedom prevailing in the northern part of this island, where its very existence was long a matter of doubt. It is a circumstance at which every enlightened Englishman will rejoice; it is an event, which naturally tends to eradicate national prejudices and distinctions; and every good subject will hail it as an additional

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ditional security for the preservation of that constitution, which has rendered England the envy of the world, and on which Englishmen depend for their wealth and prosperity as individuals, and their importance and glory as a nation. It appears, therefore, consistent with the generosity and interest of England, to foster with her friendly aid, that glow of liberty, among the Scotch, from which their present efforts have originated: and, if former times have felt the fetters of oppression, it will give lustre to the present age, to knock off the chains that bound their predecessors.

To you, Sir, who are so well acquainted with the constitution of the country, it is almost needless to mention, that at no very remote period the Boroughs of Scotland enjoyed a state of freedom. The Burgesses, as was natural and proper, were entitled to

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elect the Magistrates and Common Coun-  
 fellows who were to manage the proper-  
 ty, revenues and affairs, and to superin-  
 tend and direct the police of the Bo-  
 roughs. But at a period when the proud  
 and turbulent spirit of the Scottish Ari-  
 stocracy, having trampled on the people,  
 had become an object of terror even to the  
 Throne, the freedom of the Boroughs was  
 at once destroyed. A new system of Bo-  
 rough-government was established. A bane-  
 ful poison was infused into the constitution  
 of Boroughs. It was permitted to the old  
 Councils to elect their successors in office.  
 A power of *self*-election was thus communi-  
 cated to the officers of the corporation; an  
 institution evidently pernicious. The con-  
 ductors of the public business, become  
 thus *self*-created and *self*-existent, were  
 totally independent of the Burgeses, whose  
 affairs they were to conduct. The interest

of the Burgeses in the common property  
 and revenues, as well as in the police, was  
 despised. Their rights of election of their  
 own officers, and of control over their ma-  
 nagement, were annihilated.

Hence, as was natural to expect, the po-  
 lice of the Boroughs was neglected; their  
 revenues were misapplied; enormous debts,  
 without necessity, were contracted; the pub-  
 lic property was profusely squandered, or  
 alienated to the Counsellors, their friends  
 and connections; and, what was worse, the  
 spirits of the Burgeses, affected with the  
 languor and dejection which naturally ac-  
 company a deprivation of freedom, were  
 for a long time incapable of any vigorous  
 exertions of industry or commercial enter-  
 prize.

Regulations more impolitic than those

which have been mentioned, or more glaringly adverse to the condition of free men; political evils and abuses more extensively pernicious, can scarcely be conceived; yet they have long prevailed, and actually exist, at the present moment, in the Royal Boroughs of Scotland. It adds to the absurdity, as well as the bad effects of the constitutions of these Boroughs, that, as the law of Scotland has now been explained by judgments of the Supreme Courts in that part of the united kingdom, there is no judicature in existence to call Magistrates and Councils to an account for any misapplication of the public property and revenues. This is a defect so singular, as to be without example, it is believed, in the law of any other country; and so important, as to demand the immediate interposition of the legislature. The revenues in the hands of men thus liable to

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no responsibility are in general estimated at 100,000l. sterling per annum.

That violations of liberty so palpable, and abuses so enormous, should have excited a desire of Reform, it was but natural to expect; but a concurrence so general, and a union of sentiment and system so complete as those which distinguish the proceedings of the Burgeses of Scotland, in their proposed application to Parliament, have seldom occurred in any national measure, and must have proceeded from causes which were universal and powerful, namely, the abuses and corruptions in the present administration of Boroughs.

It is above four years since the Burgeses appear first to have conceived the design of the present application to Parliament. As the same abuses were every where conspicuous,

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euous, the same sentiments of reprobation every where prevailed. Committees of correspondence were established. In a short time, out of the sixty-six Royal Boroughs of Scotland, forty-six, and among them all the Boroughs of any importance in respect of trade, wealth, or population, heartily acceded to the measure of Reform. This produced general conventions of Delegates at Edinburgh, where the opinions of the Burgeses at large were communicated and combined, and their ideas systematized. The radical causes of the evils existing in the government of Boroughs were traced to their source; and a system of redress, which, on mature and repeated consideration, met the entire approbation of the Burgeses, was framed, to be submitted to the wisdom of Parliament.

The eagerness and unanimity with which  
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that system was embraced, afford convincing proof both of the extent of the abuse, and the liberality and public spirit of the Burgeses. Where oppression is deeply and universally felt, the means of redress, once understood, are received with cordiality and without hesitation. Where public good is the object, ready sacrifices are made of partial ideas; and local prejudices and predilections, in favour of particular systems or institutions, are willingly given up. These are facts which strongly mark the sentiments and conduct of the Burgeses of Scotland; and hence it has happened, that they have concurred with perfect unanimity in one general, simple, and practicable scheme of redress of the abuses at this time existing in the internal government of their Boroughs.

In the last session of Parliament the subject of Reform was mentioned in the House  
of

of Commons: intimation was then given of the intention of the Burgeſſes to bring it forward in the preſent ſeſſion; and the heads of the propoſed bill were circulated among the members, with a paper illustrating its object and principles. The Burgeſſes, conſcious of being engaged in a good cauſe, have evidently acted on the principle, that the more it is known and underſtood, the more it will appear to merit the attention and countenance of the legiſlature. In the preſent ſeſſion, petitions from the Burgeſſes of more than two-thirds of the whole Boroughs, ſubſcribed by about nine thouſand Burgeſſes, have been preſented to the Houſe of Commons; and it is intended ſoon to follow up theſe petitions, which ſufficiently ſhew the ſenſe of the people, by a motion for leave to bring in a bill to correct the abuſes in the internal government of the  
Boroughs,

Boroughs, leaving the Parliamentary Elections entirely on their former footing.

The direct and ſole object of the preſent Reform is to deſtroy the *ſelf*-election of the Common Councils and Magiſtrates, to veſt the right of electing them in the Burgeſſes of certain deſcriptions and qualifications, and to eſtabliſh a proper and efficient juriſdiction to call Magiſtrates and Councils to an account. This, you will pleaſe to remark, has no connection with a Parliamentary reform, and cannot interfere with the ſentiments of thoſe who are averſe from that meaſure.

I am perſuaded you will obſerve, that, while the conduct of the Burgeſſes has all along been governed equally by deliberation and firmneſs, and while the characteristic of their object is juſtice and moderation, their  
proceedings,

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proceedings are also distinguished by a manly and becoming declaration of inflexible perseverance, until they attain the end of their present laudable pursuit: nor will they despair of success.

The natural rights of the Burgeses, the claims of civil liberty, the principles of the constitution, the public utility, as inseparably connected with the spirit of enterprize, commerce, and manufacture; all these circumstances, together with the undeniable improvement of the police, property, and revenues of the Boroughs, and the voice of nine thousand aggrieved citizens, concur to support the intended application to parliament.

It is opposed, on the other hand, by the interest and wishes of those few men who compose the Town Councils, and I allow also, that the magistracy have called in some aid:

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—They tell us that the present slavery of the Boroughs is of ancient date. But they forget that their freedom is still more ancient, and that there was a period when the Burgeses enjoyed that very condition of freedom which they now desire again to have restored. We are likewise told of the dangers of innovation; as if to destroy the *self*-election of the Juntos in the Scottish Boroughs, were to hazard the ruin of commerce, and occasion a civil convulsion in the state! A time there was when the servitude of the Boroughs, introduced by James the Third, was a novelty. To innovations from liberty to servitude, it would appear, the magistracy have no objection. What they dread and detest is a change from the torpid state of slavery, to the active, happy, and elevated condition of freedom. To terrify us still farther, the Magistracy and

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Town Councils hold out the mischiefs of popular elections. But, besides that the Burgeffes of Scotland extend not their claims to Parliamentary Elections, and mean to communicate the right of electing the Common Councils not to every inhabitant, but to resident Burgeffes only, employed in trade and manufacture, it ought ever to be remembered on subjects of this nature, that England, with her popular elections, is the first nation in Europe in respect of wealth, industry, commerce, and arms.

These are my sentiments concerning the nature and consequences of the proposed Reform; and you will pardon the anxiety which has induced me again to trouble you. Although I have enlarged on the subject, you will perceive that I have still confined myself to general observations, without detailing

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tailing the abuses in Borough government. Some of these abuses are enumerated in the Resolutions of the London Committee, to which, and the Observations on the Setts or Constitutions of the Burghs, I beg leave to refer you\*.

On perusing those papers I persuade myself, that the objects of the present Reform will appear equally to merit your attention and Parliamentary support. The grievances of which redress is sought, are deeply felt, and loudly complained of by many thousands of his majesty's subjects. The principle of the moderate and just claim, now made by the Burgeffes of Scotland, is that of civil liberty. These things cannot but command the cordial support of the minister of a free country, who must know that it is his first

\* See Appendix.

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and essential duty, to protect the liberty of the people, and to prefer the happiness of the many to the partial interest of the few.

In the sentiments which I have the honour to express, relatively to a Reform in the internal government of the Boroughs, I venture to affirm that I stand supported by the opinion of almost every Burgess, excepting the individuals of the Town Councils, and their immediate connexions and dependents. And while it is certain that a Reform is earnestly desired by the Burgesses of Scotland, I cannot omit to mention, that the necessity and utility of the measure are allowed by disinterested people of every description; and that under this impression some of the first characters in Scotland, who best understand the interest of their country, and are anxious to promote it, have given to

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the present application their intire approbation, and most cordial support.

Under these circumstances, you will not, I trust, believe, that the claims of the Burgesses of Scotland have been suggested by the voice of party, or supported by the views of faction. They originate, you may be assured, in a sense of their wrongs; and are the result of serious thought, and cool deliberation. The Burgesses solicit no aid by unworthy means. Their rights have been maturely weighed by men of the most distinguished abilities both in Scotland and England, who have stood forth on the occasion with the manly boldness which the cause demands, and have assisted with their advice and opinion the efforts of the Burgesses, to obtain redress by constitutional means, persuaded as all of them were, that they should not in vain apply to

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a British House of Commons, or to a minister acquainted with the interests of his country, and who respected the rights of his fellow subjects. The time, Sir, is now at hand, when the Burgesses look forward to the accomplishment of their wishes; and while the justice of their cause animates them with hopes of success, a virtuous resolution to persevere will add dignity to that fortitude which no defeat can intimidate.

I have the honour to be,

With much respect and deference,

Sir,

Your obedient humble Servant,

ROBERT GRAHAM.

*Suffolk-Street,  
London. May 6,  
1788.*

A P P E N D I X.

No. I.

London, May 6, 1788.

R E S O L U T I O N S

*Of the Committee established in London for conducting the Application to Parliament, on the Subject of the Reform of the Internal Government of the Royal Burghs of Scotland.*

Sir THOMAS DUNDAS, Bart. M. P. in the Chair.

THE Committee having, in consequence of the trust committed to them by the Burgesses of the Royal Burghs of *Scotland*, taken under consideration the condition of the said Burghs, as to their internal government, are unanimously of opinion, from the *Leges Burgorum*, which are ascribed to King *David* the First, of Scotland, whose reign commenced about the year 1124, and from the Statutes of the Guild which bear to have been made *anno* 1284, that very long prior to the year 1469, the Magistrates and Common Councils of these Burghs were elected annually by the free suffrage of the Burgesses, otherwise called the honest men of the Burgh.

I. Original Freedom of the Boroughs.

But that by an Act of the Scottish Parliament in the year 1469, c. 29, the Common Councils of the Royal Burghs of Scotland were vested with a power of electing their successors in office; the old Councils being there- by entitled to choose the new Councils, but with a pro-

II. Deprivation of their freedom and a pernicious principle of self election in the Councils established and afterwards ex-

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tended and enlarged by the sets and by usage.

vision that the Councils and Office Bearers \* should be annually changed.

That, by another Act of the Scottish Parliament, in the year 1474, c. 56, it was appointed, that four persons out of the old should be chosen yearly into the new Councils.

That these Acts were ordained to be put in execution by a subsequent Act of the Scottish Parliament, in the year 1487, c. 108.

That a pernicious principle of *self-election*, and of perpetuating the power of parties once in the Councils, was, by these Acts of the Scottish Parliament, established in the Common Councils of all the Royal Boroughs of Scotland; for, by the Act of 1474, the old Councils might evidently elect four of themselves into the new Councils; and although, according to the Act of 1469, the remainder of the Councils was to be annually changed; yet still the old Councils had, by that Statute, the undoubted election of their successors in office, and might easily make such conditions as should tend to perpetuate their own power; which, from the testimony of experience, they are known to have done.

That, although by long and immemorial usage, the modes of electing the Common Councils of the several Royal Boroughs of Scotland have differed in a great degree from the aforesaid Acts of Parliament, as well as from each other, yet the pernicious principle of *self-election*, and of perpetuating the power of parties, in-

\* The Office Bearers, considered in a different character from that of simple Councillors, are the *Provost* or *Mayor* and *Baillies* or *Aldermen*, the *Dean of Guild*, and *Treasurer* of the Burghs.

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roduced into the Councils, by the said Acts of Parliament, is found to continue, and to pervade the Common Councils of the Royal Boroughs of Scotland, without almost a single exception. In this opinion the Committee are supported by the present sets or constitutions of these Boroughs, containing the practical Rules by which the Elections were intended to be regulated. Of these sets or constitutions, authentic extracts taken from the Records, and signed by the clerk of the convention of Royal Boroughs, have been laid before this Committee.

And it farther appears to this Committee, from perusing the aforesaid sets, that the principle of self-election, introduced by the Acts of Parliament, has been enlarged and extended; for, although the first Act of Parliament above mentioned required the whole Councils to be annually changed, and the second allowed only four persons out of the old to be taken yearly into the new Councils, yet the practical sets or constitutions are so framed, that in some Boroughs the whole, and in most Boroughs almost the whole Members of the Councils may be continued from year to year, re-electing themselves, without any change or alteration whatever: For, in direct opposition to the aforesaid Acts of Parliament, it has been established by the sets or constitutions of the Boroughs alluded to, and by usage, that instead of four persons only of the old being taken yearly into the new Councils, there are, by these sets and usages, only about two, three, or four persons of the old Councils changed yearly in most of the Boroughs, and in some of them none at all; so that it appears to this Committee, that while the pernicious principle of *self-election*, introduced into the Councils by the aforesaid Acts of Parliament, has been universally, or almost universally, preserved

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with care, and even extended and enlarged, every thing in these Statutes which could any way be salutary to the communities of the Boroughs, has been departed from, and totally neglected or abandoned.

III. The antiquity and frequency of the complaints of the system of Borough Government introduced in 1469.

RESOLVED UNANIMOUSLY, THAT it appears to this Committee, that nearly from the very period of passing the aforesaid Act in the year 1469, or as early thereafter as its operation could begin to be known or felt, the internal administration of the Boroughs has been a subject of long and repeated complaint, both to the legislature and executive government of Scotland: For,

By the Statute of 1487, c. 108, it was enacted, That the election of officers in Boroughs should be made "of the best and worthiest in-dwellers of the town, and not by partiality or mastership;" which shews that, even at that early period, the new system of Borough government, introduced by the Act 1469, had been found to be productive of abuse and oppression.

By the Act of the Scottish Parliament, in the year 1503, c. 80, it was enacted, That all officers having office of jurisdiction within Boroughs, should be annually changed; and that none have jurisdiction within Borough, unless they use merchandise within the same; which affords another early proof of the abuse of forcing strangers into the administration of Burghs, as well as of the continuation of power in one set or junto of persons, which was the natural consequence of self-election.

The Act 26th of the Scottish Parliament, held in the year 1535, proceeds on the following narrative: "Because all our Sovereign Lords Burrowes are put to  
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"poverty, wasted, and destroyed in their goods and policy,  
"and almost ruinous through fault of using of merchandise, and through being of Outlandsmen, Provost, Baillies,  
"and Aldermen, within Burgh, for their own particular  
"weil, in consuming of the common good of Burrowes,  
"granted to them by our Sovereign Lord and his predecessors,  
"Kings of Scotland, for the uphold of honesty and policy within Burgh."

The Act of the Parliament of Scotland, in the year 1609, c. 8, discharging Noblemen and Gentlemen to be elected officers of Boroughs, proceeds on this narrative: "Neither yet the course intended by his Majesty for discharging Noblemen and Gentlemen to be elected Provosts and Magistrates of Boroughs (whereof none should be capable but Burgessees, actual traffickers, and inhabitants of the said Boroughs) has taken sick effect as is maist necessary for preservation of the liberties and good estate of the said Boroughs, and hindering the dissipation of their common good, and perverting of their privileges."

In the year 1684, King Charles the Second granted a Commission for inquiring into the affairs of Boroughs, which stands in the public Records of Scotland, and an Extract of which has been laid before this Committee. In that Commission his Majesty expressly says, "We, understanding, that in many of our Royal Boroughs, the common property and revenues have, by the Magistrates for the time, been either profusely dilapidated, or privately peculated, and, for the most part, have been applied to ends and purposes totally different from those directed by law, or by the beneficent donations made by us and our illustrious ancestors; but more particularly, that  
"our

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" our Royal Boroughs, *without any necessity, have con-*  
 " *tracted debts*; and that after grants and donations al-  
 " together sufficient for the discharge of these debts  
 " were made by us, and our predecessors, and after  
 " burdens were imposed by the consent of the citizens,  
 " for payment of these debts, yet they, for the greater  
 " part, in most of our Royal Boroughs, remain unpaid;  
 " and the revenues arising from the common good,  
 " from our most liberal and beneficent gifts, and the  
 " voluntary contributions of the citizens, *have been*  
 " *wasted and misapplied*; from whence there have pro-  
 " ceeded, not only *numberless murmurs and complaints* in  
 " Boroughs, *but also those who prefer their private ad-*  
 " *vantage to the common interest of the Borough, and to*  
 " *the dignity and office of Magistracy, have excited fac-*  
 " *tions and divisions, in order to procure themselves to be*  
 " *elected to the office of magistracy, and in order that they,*  
 " *their friends, relations and dependents might be continued*  
 " *in that office, from whence they might take occasion to*  
 " *squander the properties and revenues of the Borough, in*  
 " *rewarding their friends, and supporting their factions in*  
 " *the Borough*; whereas if they were strictly compelled  
 " to render an account of the public property and re-  
 " venue of the Borough, to prove that the same were  
 " necessarily and profitably applied to the common uses  
 " and affairs of the Borough, to render an account of  
 " their dilapidations and misapplications, and to pay  
 " and indemnify the same to the Borough, and if they  
 " were otherwise fined and punished, as the laws of the  
 " kingdom require, *for their corrupt administration*, then  
 " these evils would in a great measure be remedied and  
 " prevented, from whence murmurs and complaints  
 " would cease, contentions for the office of magistracy  
 " would be restrained and mitigated, and merchants,  
 " manu-

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" manufacturers, and other citizens of Boroughs, would  
 " diligently and peacefully follow their callings and pro-  
 " fessions, and our Boroughs be well and peaceably  
 " governed," &c.\*

This picture of the Administration of Boroughs is  
 evidently drawn from the life; and such is the nature  
 of their constitution, that the lapse of a century has made

\* The Commission is in Latin. The words of the original are, " Nosq;  
 intelligentes quod in pluribus Regalibus nostris Burgis, bonum publicum Redi-  
 titus et patrimonium a Magistratibus pro tempore aut profuse Dilapidantur aut  
 privatim decoquantur, et plerumq; in fines et usus, profusos alios quam per  
 leges applicari ordinantur aut quam per benignas donationes nostras nostro-  
 rumve illustrissimorum progenitorum destinata et allocata fuere, applicantur;  
 speciatim vero quod Regalia nostra burga absq; ulla necessitate, debita con-  
 traxerunt, et postquam donationes et concessionem a nobis nostrisque prede-  
 cessoribus ad debita illa perfolvenda omnino sufficientes obtinuerunt; et post-  
 quam ex Civium consensu onera, ad dicta debita perfolvenda sunt imposita,  
 nihilominus eadem debita majori ex parte, in plurimis nostris Burgis, in-  
 soluta remanent; atque redditus emolumenta et proficua, a publico bono  
 Burgi amplissimis et benignis nostris donationibus, et liberis civium suffra-  
 giis et consensu exurgunt, magnopere consumuntur et indebite applican-  
 tur, unde non solum murmura et querimonie quam plurime in Burgis ori-  
 untur, verum etiam illi qui magis suo lucro et emolumento privato, quam  
 Burgi commodo, munerique et officio Magistratus Consulunt, factiones et di-  
 visiones in Burgo movere inducuntur, ut se ipsos ad officium Magistratus  
 elegerint, utque ipsi eorumque amici, propinqui et Clientes in dicto  
 officio continerentur, ut inde occasionem habeant Bonum Publicum Redi-  
 titusque Burgi consumendi in præmiis ad amicos suos, et Burgi factiones con-  
 tinuandas. Qui vero si stricte Rationem Reddere Cogerentur de bono pube-  
 lico Redditibus et patrimonio Burgi, et ut eadem necessarie et utiliter appli-  
 cata fuere in Communibus Burgi Commodis et negotiis, probare tenerentur,  
 proque dilapidatis et indebite applicatis, Rationem Reddere Cogerentur,  
 eaque Burgo perfolvere et Rependere Decernerentur, ac aliter *pro prava sua*  
*Administratione* prout Requirunt Leges Regni Multarentur et punirentur,  
 prædicta illa mala maximopere prevenirentur et Mederentur; atque inde  
 Murmura querimonie et contentiones pro officio Magistratus Restringerentur  
 et Sedarentur, atque mercatores opifices alique cives dictorum Burgorum  
 Diligenter et quiete artes et vocationes suas profecerentur, et Burga Nostra  
 bene et pacifice Gubernarentur, &c."

no alteration in those features of its countenance, which, in 1684, the Royal pencil had so finely delineated.

In the Claim of Rights presented to King William and Queen Mary on the 11th of April 1689, one of the grievances specially mentioned, is the subverting, by the abdicated family, "The right of the Royal Boroughs, the third estate of Parliament, imposing on them not only magistrates, but also the town councils and clerks, contrary to their liberties and express charters."

One of the special articles of grievances presented to King William, in pursuance of the Claim of Rights, on the 13th of April, 1689, was, that "The grievances of the Boroughs be considered and redressed in Parliament."

The Act of the Scottish Parliament in the year 1693, c. 28. "Anent the common good of Royal Burrowes," proceeds on this narrative, "That the Royal Burrowes of the kingdom, erected and provided with their respective public goods and revenues, are of late, through the mal-administration of the Magistrates and others, whom the management of the public goods and revenues have been committed, fallen into great debts and burthens, to the diminution of the dignity of the estate of Burrowes," &c.

In the year 1694, "a Commission, proceeding on the same narrative, was granted by the Crown to certain persons, for inquiring into the administration of Boroughs." An authentic extract of that Commission, which stands on the Public Records of Scotland, has been laid before this Committee.

In the year 1691, John Anderson, then Provost of Glasgow, in the name and behalf of that Borough, presented

presented a Supplication to the General Convention of Royal Boroughs, which is of the following tenor, "That whir the toune of Glasgow, having of a considerable time bygone flourished in its trade and inhabitants, and paid a large share of the public burthens, dew and payable by the state of Burrowes, trew it is that of late the said Burgh is become altogether incapable of subsistence in regard of these heavy burdens that ly thereupon, occasioned by the vast sommes that have been borrowed by the late Magistrates, and the misapplying and dilapidation of the townes patrimony in suffering their debts to swell, and employing the common stock for their own sinister ends and uses. Whirin if the petitioner should be expres in the particular, it would exceedingly tend to the dishonor and disparagement of those whose dewty it was to have been the patriots and supporters of the place. But without any design to reflect or expatiate upon ther misdemeanors, the petitioner humbly represents, That there was an absolute and indispensable necessity for the present Magistrates to sell and dispose of a great part of thir patirnone, especially the lands and Barone of Provan, towards the defraying of ther most urgent and pressing debts, and without doing thereof they cannot propose any personal security from the townes creditors; nor will there be any persons found to represent the toune in the office of Magistracie till they be secured from legal diligence\*, which can only be done by disposing of ther patirnone to a present sale; and therefore desiring the Convention to interpose thir authority, and grant warrant to the present magistrats and council of Glasgow, to sell and dispone ther said lands of Provan, and such other lands of few dewties as belong to them, to be employed for payment of the foresaid

\* Process of the Law.

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"debts AS THE SUPPLICATION BEARS." An authentic extract of this Supplication, taken from the Record, and signed by the clerk of the General Convention of the Royal Burghs in Scotland, has been laid before this Committee.

AND that the General Convention of the Royal Boroughs of Scotland did themselves entertain, with regard to the general administration of the Boroughs, the sentiments contained in the above-mentioned Supplication from the Borough of Glasgow, appears from an Act of the General Convention in the year 1691, which states that there were "MANY COMPLAINTS" given in to the respective General Conventions of "Burrowes, thir several years bypast, by many particular Burghs, yea univerfally by the whole Royal Burrowes, complaining of their poverty, want and decay of trade; and that they are not rightly adjusted in the Taxt Roll as to the quota and proportion of burden. And considering that ther has been several remedies proposed, yet none has been received with that univerfal satisfaction, as a general search and inquirie to be made into the state and condition of every Burgh, as to thir trade and common good, by a visitation to be made over the whole Burrowes; which, although not practised formerly, yet its thought to be the most just and equal way how to adjust the Taxt Roll, if impartiallie gon about. Therefore the Convention ordaines every particular Royal Burgh within the kingdome to be visited as to ther trade and common good, conform to the instructions hereunto subjoined, and for that effect appoints and nominates four "visitors," &c.

It is farther a matter of public notoriety, that since the

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the Union, the mal-administration of Magistrates and Councils has been very great, as well as essentially hurtful to the property, revenues, and general prosperity of the Boroughs; although the political circumstances of the country of Scotland, and particularly the two rebellions in 1715 and 1745, had formerly prevented the Complaints of the Burgesſes from reaching the ear of the British Legislature.

RESOLVED UNANIMOUSLY, THAT on consideration of these different proofs, facts, and authorities, it appears evident to this Committee, that from a very early period after the year 1469 when the Burgesſes were deprived of the right of electing the Magistrates and Councils, the administration of the affairs of the Scottish Boroughs has always afforded matter of great and frequent complaints; a proposition which is sufficiently supported by the sense of the nation, repeatedly declared in Parliament, by the voice of the executive government of Scotland, which, on different occasions, has pronounced aloud the mal-administration of Borough affairs, and extended its arm, though without effect, for their redress; by the Claim of Rights, and by Supplications of Individual Boroughs to the General Convention, as well as by the declared sense of the general convention itself.

RESOLVED UNANIMOUSLY, THAT it further appears to this Committee, not only that the present constitutions of the Boroughs, which permit the Town Councils to elect their successors, and of course themselves, are pernicious in their own nature, and have afforded subject of long and well founded complaint, but that these systems, as might naturally be expected, have also produced a variety of gross and extensive abuses, essentially

IV. The actual and gross abuses existing in the present systems of Borough Government.

essentially hurtful to the interest and prosperity of the Communities. For,

Partiality in quartering soldiers.

1st, *Although*, by the law of Scotland, all the inhabitants, without distinction, are liable to the burden of quartering soldiers; yet the Magistrates and Councils, in all or most of the Boroughs in Scotland, have always been in use to exempt themselves, and the widows of all deceased counsellors, from this burden of quartering of soldiers; an exemption which is manifestly illegal, as well as partial and oppressive, in relation to the other inhabitants. And the Town Councils, in many Boroughs, have also been in use to exempt their own members from Shore Dues, and other duties and burdens, to which the Burgeses at large are by law and justice equally liable, without distinction or exception.

Illegal exactions in name of Cefs.

2dly, *Although* by law the Magistrates and Councils are entitled to levy from the Heritors and Burgeses in the different Boroughs not more than the proportion of the King's Cefs or Land-Tax falling on the several Boroughs, yet the fact is, that these Magistrates and Councils have been in use to levy from the Burgeses and Heritors, in the name of Cefs, sums of money to a much greater amount than the just proportion thereof, payable by the several Boroughs, and to a much greater amount than is ever paid into His Majesty's Exchequer\*.

In several Boroughs this illegal and unjust exaction has been carried to an alarming and dangerous extent; for, in the city of Aberdeen, the Magistrates and Councils have, during only a space of six years, levied, under

\* Historical accounts of the Government of the Boroughs, and the printed proceedings of the Burgeses of Aberdeen.

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the name of Cefs or Land-Tax, more than 1000 l. sterling above what was truly due or paid into the Exchequer, besides the expence of the collection: and in consequence of a calculation made of similar illegal exactions on the same account in Aberdeen, from the time of the Union, downwards, they were found to amount, including interest, to the enormous sum of 44,000 . sterling !!!

The town of Perth, within these twenty years, is perhaps a fourth part larger than it formerly was, and near a third of the old houses have been rebuilt. The cefs is demanded for every new house as soon as it is built; while the former cefs on old houses is continued precisely what it was; so that the exactions, in name of cefs, are greatly more than necessary or warranted by law. Similar illegal exactions of considerable sums of money, under cover of cefs, have been made in the Boroughs of Lanerk, Brechin, Dunbar and others.

Diffipation of the public property exemplified in several Boroughs.

3dly, *Although* anciently the Royal Boroughs of Scotland, or most of them, were possessed of very considerable estates, in land and other real estates, which were the public property of the several Communities; and although it was the indispensable duty of the Magistrates and Councils, as the administrators and guardians of the public property, to have preserved the same, and improved them to the best advantage, for the benefit of the several Communities; yet, in all or most of the Royal Boroughs of Scotland, the Magistrates and Councils have, at different times, made various alienations of the public property to one another, and to the friends and connexions of each other, often for trifling, and almost always for inadequate values or considerations; whereby the public property of the several Communities is now greatly

greatly diminished, and many of them, stripped of the greatest part of their estates, in the improvident and unfaithful manner above-mentioned, have been reduced to great poverty and distress. Of these improvident and unjust alienations of the public property, this Committee shall only select a few examples from the historical accounts of the government of the Royal Boroughs, which have been laid before them.

Inverness.

In the Borough of Inverness the public property alienated, within the last century, by the different leading Magistrates, in favour of themselves and their adherents, for trifling feu-duties, not exceeding in all 20l. *per annum*, now yields above 3000l. sterling, of yearly rent. The facts relative to the alienations of public property in Inverness are contained in the Historical Account of the Government of that Burgh, signed by the Prefes and Secretary of the Committee of Reform at Inverness, and laid before this Committee.

Lanerk.

The town of Lanerk was proprietor of a common which was large and valuable, and afforded pasture to the cattle belonging to the inhabitants, whereby it was of the greatest utility to them: But the Magistrates, and Councils, have at different times sold and feued out this common in the most private manner to their own favourites; and the extensive, fertile, and valuable lands, which surrounded the town, have been alienated at a feu-duty fifty times below the present value. In that Borough also this Committee cannot but remark an example of the most improper and unjust administration; for, about thirty years ago, a leader of the self-electing power took a lease of a part of the town's common, which he possessed till about nine or ten years ago, when, finding it an unprofitable bargain, he wished to

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get free of it. A scheme for this purpose was concerted with his friends in Council, who promised to stand by him. It was then represented to the Council, that a part of the town's common being barren and unfit for pasture, should be planted with firs; but that this could not be done till the aforesaid lease should be bought up. The Council agreed, and ordered twenty years of the Tack-duty to be returned, as an equivalent to the Tackfman for giving up the lease. Thus, by an ingenious device, the leader of the Council was rewarded for giving up an unprofitable bargain; which, being done, he then informed the Council, that a great many firs were already planted, and more he thought unnecessary. The Council again acquiesced in his sentiments, and the possession remains to this hour in a state of nature. These facts, relative to the misconduct of the Magistrates and Council of Lanerk are contained in the Historical Account of the Government of that Burgh, which was laid before this Committee, and which is signed by the Secretary of the Committee of Reform at Lanerk, by authority of that Committee.

Dundee.

The lands, which anciently belonged in public property to the Borough of Dundee, are represented by the Burgeses of that town to have been very extensive. But these, except an inconsiderable part, were distributed among the friends of the men who formerly composed the Town Councils, many of the alienations having been made, as the Burgeses of Dundee affirm, for such causes as bear no proportion to the value of the property given away; while, at the same time, they assert, that had the administration of the Borough affairs been faithful and proper, the annual revenues, now about 1800l. might have been five times that sum. These particulars, concerning the mal-administration of Dundee,

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des, are specified in the Historical Account of its Government, transmitted by the Burgeses of that Burgh, and laid before this Committee.

**Haddington.**

The town of Haddington, till within these forty years, possessed one of the most extensive commons in Scotland, being about 1000 Scots acres. Almost the whole of this extensive landed estate has been alienated by successive Counsellors, to themselves, and their connexions; and nothing now remains of that large estate, excepting some spots of land, in all not exceeding twenty acres, if even so much. These facts, relative to the alienation of the public property of Haddington, are stated in the Historical Account of its Government, signed and transmitted by the Preses of the Committee of Reform in that Burgh, and laid before this Committee.

This Committee think it unnecessary to enumerate more examples of the unjustifiable alienations of the public property of the Boroughs which have been heretofore made by the Magistrates and Town Councils, though many others, if necessary, might be specified; for similar dilapidations have happened in the Boroughs of Glasgow, Wigton, Whithorn, and many others.

**Misapplication of the public revenues and enormous contractions of debt.**

4thly, *Although* it was the indispensable duty of the Magistrates and Town Councils, as wise and faithful guardians of the Public Revenues, to apply the same to their proper objects, to manage them with prudence and economy, and to proportion, as nearly as possible, the expenditure of every Borough to the extent of its revenues, so as to prevent the ruinous practice of contracting debts; yet it is a matter of public notoriety, that the Magistrates and Councils, in all, or most of the Boroughs, have grossly misapplied the Revenues under their administration; have managed the same without prudence

prudence or economy, and have contracted debts to an enormous amount, whereby most of the Boroughs are heavily loaded and distressed with debts\*, and many of them brought to the very verge of bankruptcy. This power and practice in the Magistracy and Councils of contracting debts to an unlimited or indefinite amount †, are the more peculiarly alarming, because, by the present constitutions of the Boroughs, the Magistrates and Councils are totally independent of the Burgeses; and, because it seems to be understood in the law of Scotland, that in the event of a deficiency in the public funds of the several Boroughs, the private properties of the individual Burgeses are liable to legal attachment, and their persons to imprisonment, for payment of the debts of the communities. Thus the individual Burgeses are in danger of being utterly ruined by the actions of men whom they have never intrusted with the administration of the public affairs, whom they cannot remove for misconduct, and over whom they have no control of any kind.

\* Of this, strong evidence has been already referred to in the several Acts of Parliament, Royal Commissions, and other writings cited above.

† It has been said, that the Act of the Parliament of Scotland, in 1693, c. 28, affords a security against contracting debts; because it declares, that the Magistrates and Councils shall not contract any debts without a previous Act of the Town-Councils in their fullest convention both of Merchants and Deacons of Crafts, specifying the causes of the contraction.—This observation, like most others made by the Town-Councils in defence of the present systems, is fallacious. For, 1st, The Act of Parliament only requires that, before contracting debt, the Town-Councils shall make an Act of their own, authorising the contraction, which is a very easy matter. 2dly, Experience has invincibly proved the inefficacy of the statute in the enormous contractions of debt, which have been made since its enactment. 3dly, The statute provides that, in whatever manner debts are contracted by the Magistrates and Council, the same shall be effectual to the Creditors against the community.

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5thly,

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Imposition of  
taxes without the  
authority of Par-  
liament.

5thly, *Although* by the fundamental and inviolable principles of the constitution of this country, no Tax of any kind can be imposed on, or exacted from, any part or description of his Majesty's subjects, without the authority of Parliament, yet the Magistrates and Councils of several of the Royal Boroughs of Scotland have actually exercised the dangerous, illegal, and unconstitutional power of imposing taxes on the inhabitants, without the authority of Parliament; and, particularly, this violation of the constitution has been committed by the Magistrates and Councils of the Boroughs of Glasgow and Aberdeen; which can be sufficiently substantiated from the public Acts of the Town Councils of these several Boroughs. In the city of Glasgow the power of taxation assumed by the Magistrates and Council, was exercised under pretence, that the tax imposed was established by usage. But that pretence having failed, they supported the Tax upon this singular ground, that the article taxed had partly superseded the use of another commodity on which a Tax had been established by usage. And in the city of Aberdeen, that extraordinary power which belongs exclusively to the supreme legislature, was exercised by the Magistrates and Council under the colour and manifest deception of Head Courts of the Burgeses, called together by the Magistrates, for the ostensible purpose of imposing taxes, to support the police of the Burgh, and auditing the public accounts. But at these Head Courts the Burgeses were not permitted, by the Magistrates, to employ any act of deliberation, or any right of decision, with regard either to the taxes which were frequently imposed in direct opposition to their remonstrances, or the accounts which they were told might be read, but could not be judged of by

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them; so that it would seem the Burgeses were only called together *to witness* the exercise of the enormous and unconstitutional power of imposing taxes, by the sole authority of the Magistrates and Councils, and the absurdity of passing accounts, without a right of judging, or power of determination, but of merely hearing them read. While thus, the principles of the constitution were plainly violated, it was no small aggravation of the offence, that the understandings of the Burgeses were by the same act glaringly insulted\*.

6thly, *Although* it is the indispensable duty of the Magistrates and Council, as faithful administrators of the public affairs, to get the public works, and public business of the Boroughs executed on the cheapest and most reasonable terms, that are consistent with the due and proper execution thereof, yet the public works and business of the several towns are frequently given away in jobs, on high terms, to the Counsellors, their friends and dependants, while the public works and business might be executed equally well by others, on much lower and more reasonable terms; and this is one of the means of influence generally used to support the interest of the leading men in the Councils, and to preserve to them the perpetual management of the political power of the Boroughs. Of that abuse of office, which this Committee is informed is frequent, they shall only at present give an example or two.

Jobbing the  
public works and  
business.

\* A remarkable instance of the extent to which abuses, under the idea of the power of making such exactions, may be carried, appears from the Magistrates of Aberdeen assessing annually upon the citizens 155l. 10s. for the interest of a debt, which is said to have been contracted to bring water into the town, and 12l. 10s. yearly towards reducing the principal sum—although upon an examination of the account by the Burgeses, it appeared that the debt had been overpaid, by money thus drawn from the citizens, to the amount of 5000l. See the printed proceedings of the Burgeses of Aberdeen.

In the Borough of Peebles a church was lately to have been built. An opulent and respectable citizen, who had been lately provost of the town, perceiving that a job was intended, offered to build and finish the church, and deliver the keys of it, so finished, to the Magistrates, for the sum of 850l. sterling. This offer, for the performance of which he could find undoubted security, was rejected. The *Treasurer of the Borough*, by profession a mason, was employed, and he proceeded with the work, upon which he spent about 1600l. being double the sum for which the church might unquestionably have been built, in a better manner than has been done by the Town Council.

In the Borough of Perth, it would appear, examples of a similar abuse have occurred. The following passages, selected from the historical account of the Government of Perth, may serve for illustration. "In managing any public work, little regard is paid to the funds of the community. The business is given to some adherent or friend, and what any prudent man would do for 100l. will be found in general to cost the town three times the sum. Many instances of this could be given, but one glaring case shall suffice: By an Act of James the 6th, the Borough have right to a certain pontage at the bridge over Earn, with the burden of upholding that bridge. Some years ago an arch of the bridge was thought insufficient and was taken down. It was an arch not above 30 feet wide; but the building of it cost the town considerably more than 3000l. sterling, although a complete new bridge over the same river, about three miles above, was built by subscription for 500l. sterling. This was not all, for the county, before the arch

arch was taken down, offered to take the burthen upon them, in all time coming, on being allowed the pontage. The town's managers refused that, and they draw about 60l. a year for it. If this was prudent management, the disinterested will judge!"

This Committee have given only a few examples of an abuse, which they are informed, by the Burgeses of Scotland, is extremely general, but which can never be remedied while the government of Boroughs remains in the hands of *self-elected* administrators.

7thly, *Although* it is self-evidently essential to the welfare and good government of the Royal Boroughs, that the persons intrusted with the administration of their affairs should be intimately connected therewith, by residence, as well as by trade or property, so as to be in a condition to discharge the duties of their offices, and to feel a deep and lively interest in the prosperity of the respective communities; yet this salutary rule, evidently dictated by common sense, and the most undeniable expediency, has been egregiously violated in the election of the Magistrates and Counsellors of many of the Royal Boroughs of Scotland, who, instead of being resident in the Boroughs, have often been persons without trade or property therein; and having their residence in distant parts of the country of Scotland, as well as in *London* and *different parts of England*, and even in the *West and East Indies*.

Counsellors and Magistrates of Boroughs resident in foreign parts.

8thly, *Although* it is the evident interest of the Boroughs, and agreeable to the liberal and enlightened spirit of the British Legislature, to give every encouragement to the increasing industry, commerce, and manufactures of the country; yet the Magistrates and Councils of some of the Royal Boroughs of Scotland, actuated by too narrow ideas, are contriving means to

Raising the dues of admission of Burgeses and other abuses of power by the Magistracy.

suppress the growing spirit of commerce and manufactures, by creating difficulties to the exertions of industry, and establishing restrictions, which are in themselves equally illiberal and impolitic. For, in the city of Aberdeen, the Magistrates and Council have, within these few years, by their own mere authority, raised the dues of the admission of Burgeses, from 13l. to 26l. sterling, not only without the consent, but in direct opposition to the sentiments of the citizens. And this right of the Magistrates and Council to raise the dues of admission of Burgeses at their discretion, having been called in question in the Court of Session in Scotland, the misrepresentations of the Magistrates have induced that Court to give the sanction of a judicial decision to the authority of the Magistrates and Council, to raise the dues of admission of Burgeses without any specific limitation. And as the principle upon which the right of the Magistrates of Aberdeen, to increase the dues of admitting Burgeses, necessarily extends itself to every other Burgh in Scotland; it follows that the same oppressive and impolitic limitations, on the spirit of industry and manufactures that have been introduced at Aberdeen, may be universally established, which has spread a very general alarm through all the commercial towns in the northern part of the island, and created the most serious apprehensions in the minds of the commercial part of the community. For if the Magistrates of towns can thus double the dues of the admission of Burgeses, they may, by the same rule, treble or quadruple the exaction, or, in short, raise it to any sum they please, than which nothing could be more hurtful to the industry, population, and general prosperity of the Boroughs.

Nor can the most evident impropriety of a measure afford

afford any security against its being adopted by the Magistracy and Councils; for in the long and undisturbed possession of power without any control from the Burgeses, Magistrates have thought themselves entrenched in a security altogether inaccessible to the restraints of any authority. Of this several instances might be given: at present the Committee cannot avoid mentioning a recent and striking example, of which they have been informed by the Burgeses of Aberdeen. In the year 1773, an Act of Parliament for 21 years was obtained by the Magistrates and Council of Aberdeen, to enable them to double the duties upon each barrel-bulk of goods imported into the harbour. The original dues were 1d. those imposed by the Act 2d. to Burgeses, and 4d. to strangers. These rates and duties the Magistrates were bound to apply, "besides building a pier, in improving and repairing the said harbour, and in keeping and maintaining the same in good order and repair, and in preserving the said harbour clean and free from sand, shingle, mud and dirt, and other obstructions whatsoever." It is impossible to conceive language more explicit than that made use of in this Act, to define the duty and obligation of the Magistrates of Aberdeen as Trustees for the public. Yet, in the face of this Act of the Legislature, and in direct violation of it, they have laid out 1300l. of the monies levied by it in building a battery, useless in itself; and that too after a prodigious expence improvidently disbursed in the execution of the pier, the principle object of the Act, upon which an argument has been founded for the necessity of a renewal of the Act of Parliament whereby the burden of 1000l. per annum, now raised by it, instead of between 4 and 500l. paid before its commencement, would be continued. Thus, instead of the debt being extinguish-

ed before the expiration of the Act, which it certainly would have been if the Harbour Funds had been managed with economy, there will be farther established upon commerce an unnecessary Tax, in itself a very great burden upon the Burgeses, who, except a trifle, alone pay the whole of those duties.

V. The foregoing abuses originated chiefly, if not intirely, from the system of self-election in the Councils.

RESOLVED UNANIMOUSLY, Upon due and full consideration, That the enormous abuses in the internal administration of the Scottish Boroughs, which have been enumerated, as well as many others which might be mentioned, have originated chiefly, if not intirely from the *self-electing power* of the Councils, which naturally, and indeed necessarily, leads to abuse and corruption, and to waste and misapplication of the revenues and property of the communities.

VI. They admit of no remedy but by destroying the *self-election* of the Councils.

RESOLVED UNANIMOUSLY, That these grievances, extensively ruinous as they are in their nature and operation, can never be effectually remedied, unless the *self-electing power* of the Councils is totally eradicated by the wisdom and justice of Parliament; a proposition, the truth of which is ascertained beyond dispute, by the experience of ages. For although, during two centuries prior to the Union, the Legislative and Executive Government of Scotland, united on different occasions in their complaints and disapprobation of the administration of Burghs, and attempted to apply remedies to evils which were flagrant and notorious, yet all their efforts proved abortive, because they did not strike at the root of the evil which lay, and still lies, in the *self-creating power* of the Common Councils and Magistrates, who are the legal Administrators of the affairs of Boroughs. Palliatives had for ages been administered in vain. It is now high time to probe the

the wound to the bottom, and to apply at last a radical cure.

RESOLVED UNANIMOUSLY, That, in the opinion of this Committee, the great abuses, malversation, and corruption, which are naturally and necessarily incident to a self-electing power in the administrators of Borough affairs, wear at present an aspect more peculiarly alarming and dangerous to the best interests of the Boroughs; because, as the law of Scotland is now understood, there is no judicature in that country, competent to bring the magistracy and councils to an account, at the instance of private Burgeses, for any mal-administration of the public affairs, or misapplication of the public revenues. In giving that opinion, this Committee rests not on the authority of private Lawyers, but on the solemn decisions of the Supreme Courts of Justice in that part of the kingdom. The title of private Burgeses to bring Magistrates to an account had long been a subject of dispute in the Law of Scotland. In the year 1748, as appears from the remarkable decisions collected by Lord Kames, the question was debated at great length by the ablest Lawyers, in an action at the instance of the Burgeses of Selkirk against their Magistrates and Council. The opinion of the judges frequently changed in the course of the same action, and no final determination was pronounced. But in the year 1772, the Court of Session, in an action of accounting at the instance of Gilchrist and Burn, and other Burgeses of Kinghorn, against the Magistrates and Council, found, in express terms, the action incompetent in that Court. The Burgeses of Dumbarton afterwards brought an action of accounting against their Magistrates and Council in the Court of Exchequer

VII. These are abuses now become more alarming and dangerous, by reason of the want of a Judicature to call Magistrates to an account.



Exchequer in Scotland, founded on certain Acts of the Parliament of Scotland; and in the year 1787, the Barons of Exchequer, after the fullest and most mature deliberation, found that there was no jurisdiction in the case competent to them. An authentic Copy or Extract of that Judgment has been laid before this Committee.

THAT from these judicial determinations of the Supreme Courts of Scotland, this Committee conceive themselves warranted in saying, with the Burgeses, that as the Law of Scotland is now understood, there is in that country no Judicature competent to call Magistrates and Councils to account\*. For, with regard to the claim of jurisdiction made by the general Convention of the Town-Councils, to call themselves to an account, this Committee conceive it to be in every

\* It has been said that by the Act 1693, c. 23, action is made competent in the Court of Session against Magistrates and Councils, at the instance of any Burgeses who has borne the office of *Provost, Bailie, or Dean of Guild*: but this statutory enactment is not of the smallest consequence; for, 1<sup>st</sup>, It relates merely to *contractions of debt* in violation of the statute without regard to the management of the police, common property, or revenues. 2<sup>dly</sup>, Experience has in the clearest manner proved the inutility of the Statute. 3<sup>dly</sup>, It is extremely natural that the case should so stand; for who are the persons authorized by the Statute to institute the action therein made competent? Those only who have been in the Councils!—Against whom is the action to be brought? Why, against themselves and their associates in the Councils! The effects of this Law have intirely corresponded to the imperfections of its enactment. It has not produced the smallest benefit to the property or revenues of Boroughs: And indeed the case could not be otherwise, since the power of the Councils is perpetual, and no person is ever admitted into them but the friends, dependents, or connections of the leading men already there; so that scarcely any person has ever been found to bring the action, mentioned in the Statute 1693. In short, every thing concurs to demonstrate, that for the abuses in Borough Government there is no remedy but one, namely, to destroy at once the *self-election* of the Councils.

respect

respect groundless, inexpedient, and illegal; and it was considered in that light by the Honourable Barons of Exchequer, in the case of *Dumbarton*.

RESOLVED UNANIMOUSLY, That this Committee cannot but perceive, that there prevails among the Burgeses of Scotland a strong, anxious, and general desire to obtain a correction of the gross abuses and defects existing in the internal government of the Boroughs; because, on perusing the Petitions from the Boroughs, in support of the measure of Reform, this Committee find that the same are subscribed by about 9000 Burgeses and Heritors, who appear to labour under a deep impression of the enormity and evil consequences of the present systems of Borough-government, and who, therefore, earnestly implore the interposition of the Legislature to afford them proper and effectual redress.

VIII. The general desire of the Burgeses, from a deep sense of abuse, to obtain a correction of the internal government of the Boroughs.

RESOLVED UNANIMOUSLY, That while it is not the object of the Burgeses of Scotland to alter in any respect the elections of the Members of Parliament for the Boroughs, which are still to remain in the Town-Councils as formerly, there is the most manifest justice and expediency in complying with their moderate and reasonable request of vesting the Elections of the Common Councils, in the respectable resident Burgeses, exercising Trade and Manufacture in the Boroughs. This, and a proper Judicature of Accounts, which are the sole objects of the present Reform, will secure to the Communities all the advantages of an active, faithful, and beneficial administration, relative to the police, common property, and revenues of the Boroughs; objects which, if attained, will tend to promote the industry and prosperity of the Boroughs, as well

IX. Nature and extent of the Reform sought by the Burgeses.

well as of the country in general ; while, at the same time, this reasonable request of the Burgesſes, to have the election of the persons who are to regulate their police and manage their common property and affairs, naturally arises from, and is intimately connected with the principles of Civil Liberty and the spirit of the British Constitution.

X. The beneficial consequences of the alteration of the constitution of the Borough of Stirling.

RESOLVED UNANIMOUSLY, That from perusing the set of the Borough of Stirling, an authentic Extract of which has been laid before this Committee, they find that this Borough, having been disfranchised, was restored to its freedom by the benignity of the Crown, in the year 1781, at which time the set was altered and new modelled, and the election of the Common Council of that Borough established in the same manner, and on the same principles, which are now contended for by the Burgesſes of the other Boroughs : and that, from a Resolution of the Guildry of Stirling, an authentic extract of which has also been laid before this Committee, they find that the Guildry of Stirling have given it as their clear opinion, that the "late alteration in the set of their Borough has been highly beneficial to the inhabitants." This the Committee must consider as the testimony of experience, declaring decidedly in favour of the salutary nature and tendency of the objects of Reform.

The Committee Unanimously Resolve, That the foregoing Resolutions be immediately printed and circulated for the information of the Members of Parliament, as well as of the Public.

THOMAS DUNDAS, CHAIRMAN.  
THOMAS BELL, SECRETARY.

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

General Observations on the Sets or Constitutions of the Royal Boroughs of Scotland.

IT would appear, that, prior to 1708, few of the Boroughs had any certain or fixed forms of election of their Magistrates and Town Councils ; at least if they had, their forms of election depended in general, chiefly on usage, and were not known to the general convention of the Boroughs. The convention found this to be attended with inconveniencies, and therefore, about the beginning of the present century, that body issued orders to all the Boroughs, to transmit their sets or constitutions, or extracts thereof, to the clerks of convention, to be by them transcribed in a particular book or record.

History of the sets.

In consequence of this order, the Councils of such Burghs who, prior to that time, were possessed of established written sets, transmitted extracts thereof from the council books, to the clerks of the general convention. On the other hand, the Councils of those Burghs, which then had no certain written sets or constitutions, collected the usage that had prevailed in their elections and government, from such evidence as they were possessed of, reduced the same into some kind of form or system, and also transmitted an authentic extract or copy of this system, so collected from usage, to the general convention. That such was the condition of the Burghs with regard to their sets, prior to the beginning of

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of this century, will appear from perusing the sets themselves.

The general convention having thus obtained possession of the sets or constitutions of almost all the Boroughs, entered the same in a particular Record established and kept for the purpose.

From that record, the committee of the general convention of Burgeses, concurring in the proposed Reform of the internal government of their Boroughs, have obtained authentic extracts of the sets or constitutions, signed by the official clerk of the general convention of Royal Boroughs. These extracts have been printed, and the originals are in the hands of Mr. Wilson, Solicitor for Reform at London.

Nature of the sets.

The sets, which are sometimes called the constitutions of the Boroughs, contain the practical rules or regulations, intended to direct their elections of Magistrates and Common Councils. This is, in general, the nature of the sets; but with relation to the particular modes of election adopted in the several Burghs, the sets differ greatly from one another.

With regard to the authority from whence these sets are derived, there is one principle common to almost all of them, namely, that of *self-election* of Town Councils, which appears to have originated from the Act of Parliament of 1469, and subsequent statutes of the Scottish Parliament. But with regard to the various modifications of that principle, and the different ways of carrying it into execution in different Boroughs, the sets appear to depend, not on any certain or uniform authority, but to have been derived from different sources: for example, on perusing the sets it

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will appear, that some of them have been framed by the Town Councils themselves, and, excepting as to the principle of *self-election*, rest alone on that authority, with the aid of usage: that some sets, originally framed by the Town Councils, or collected by them from usage, have received the approbation of the general convention of Boroughs: and that other sets owe their force to the decisions of private persons, or of committees of the general conventions, in consequence of submissions or arbitrations made to them by some of the Burgeses, who for the time were in the offices of the Magistracy and of the Councils and other offices; but it is by no means obvious by what authority they presumed to submit to the arbitration or decisions of private persons, the public rights of the Burghs or incorporations.

It thus evidently appears, that the legal foundation on which the present constitutions of the Boroughs stand, is in many respects questionable: but this is not all. These sets or constitutions have also been in themselves extremely fluctuating and uncertain. The Act of Parliament 1469, and subsequent Act of 1474, had established one general and uniform constitution for all the Boroughs. But the sets have, in numberless instances, deviated from the enactments of these statutes. Usage has in several cases deviated even from the sets; and in many instances, the direct authority of the Town Councils, aided by the approbation of the general conventions of Boroughs, has been interposed, to set aside altogether both the prior usage and the old sets, and to introduce, from time to time, a variety of alterations in the sets or constitutions of the Boroughs. These facts are proved, beyond the possibility of dispute, by

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the Acts of Parliament alluded to, and by the sets compared with each other, and with the usage which has prevailed in the Boroughs.

In vain, therefore, is it to pretend, that the constitutions of the Burghs are to be regarded as permanent Rights or Establishments: For, from the year 1469 downwards, they have been perpetually fluctuating; and, in this respect, they are certainly singular, that they are, it is believed, the only institutions in the country, which, for about three centuries, have been continually changing, without ever mending in their nature or effects. Nor is this to be wondered at, considering that the poison of *self-election*, without being expelled, has been suffered to prey on the constitution of Boroughs; which has reduced it to a languid and unhealthy condition. Much quackery has indeed been employed by the Town Councils, and their representatives, the general conventions; but as it was not their interest, so they have never attempted to effect a radical cure by destroying the *self-election* of the Common Councils, and thereby "infusing a portion of new health into the veins of the Constitution\*" of Boroughs.

\* Lord Chatham.