

35-20

11 2 3 4 5 6 7 8 9 2

ANIMADVERSIONS

BY THE

DELEGATES

FOR

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

ON

A PAPER,

ENTITLED

“ ABSTRACT OF FACTS, &c.

“ RESPECTING THE REVENUES OF

“ THE ROYAL BOROUGHS OF SCOTLAND.”

LONDON, June 13, 1788.

THE paper to be animadverted on made its appearance only on Monday, the 9th current, when it was supposed the motion of Reform would have been made in the House of Commons.—The title of the paper is, however, candid: It is called a State of Facts, *et cetera*, that

A is,

(2)

is, of Facts, and of things that are *not Facts*. The Town Councils, no doubt, intended to serve up a palatable dish to the Members, by pretending to season their groundless assertions with some portion of truth; but the quantity of that ingredient in the composition is so small, that, on trial, the flavour of it can scarcely be known. The Burgeses indeed can scarcely believe that the Magistrates have authorised either the matter or the indecent manner of the publication.

Although the abstract of Facts professes to be confined to the revenues, it indulges itself in gross misrepresentations with regard to other particulars.

It is said, in the first place, "That the pretended Reformers, conscious that it behoved them either to have Facts or the appearance of Facts to go upon, were pleased to advertise for grievances."

Answer. The Burgeses of Scotland, from the very beginning, felt the oppression of manifold grievances

(3)

grievances which passed daily before their eyes; and hence they loudly complained of the self election of their Councils, of the abuses with which it was attended, and the want of a proper mode of accounting. The Committee at Edinburgh, in a circular letter, desired the Burgeses of each Borough to specify accurately those abuses, in point of fact, which had proceeded from the self-election of the Councils, in order that their case might be fully and fairly laid before Parliament.

This is what the Town Councils are pleased to call *the advertising for grievances*; and, considering how the Fact truly stands, it is believed, that a more uncandid, or contemptible trick of imposition never was played than is done by the Town Councils, when they assert, that the Committee of Reform *advertised for grievances*.

In the next place, the Town Councils alledge, that the Reformers, having despaired of obtaining a change in the parliamentary elections, varied their object, and demanded

(4)

an alteration in the elections of the Town Councils.

Answer. This is another gross misrepresentation.—
The self election of the Common Councils was the chief ground of complaint with the Burgeffes from the very beginning. It is true they had it once in view to obtain a reform also of the parliamentary elections; so that they had both objects under consideration; and they accordingly prepared, at one and the same time, a Bill on the subject of each. This affords demonstration, that, in their opinion, a Reform in the internal government, did not, as is pretended by the Town Councils, necessarily operate a Reform likewise in the parliamentary elections; otherwise they would never have framed two Bills for these two objects; since, if they were essentially the same, one Bill would have been fully sufficient for all. The Burgeffes, however, were convinced that the two objects were different; but there never was a period, from the very commencement of Reform, when the defects in the internal government

(5)

vernment did not engage most the attention of the Burgeffes.

When the motion for a Parliamentary Reform in England was defeated, the Burgeffes laid aside every idea of asking a Reform in the Parliamentary Elections of the Boroughs of Scotland; for they could scarcely hope to obtain what was denied in England, though they are certainly in a much worse situation; but they saw no reason why they should not persevere in their intention of correcting the gross defects in their internal government; an intention essentially different in its object from that of obtaining a Parliamentary Reform.

The Town Councils, in the third place, would fain ascribe the present Reform to the speculations of some individuals.

When the Town Councils mean to invent and propagate tales for the ear of the Legislature, they should at least give them the appearance of credibility. To be convinced of the Falseness of what is here asserted, it is
Answer.
only

(6)

only necessary for any man of common sense to look at the very cause to which Reform is ascribed, and the effects which have followed.

The case, according to the Town Councils, stands thus: Certain speculators have told the Burgeffes of Scotland, what they never knew, that the governments of the Boroughs were egregiously defective, and that gross abuses, in relation to the police, property, and revenues, had from thence proceeded. In an instant, near ten thousand actual trading Burgeffes, from every corner of the country, have associated together; have established Committees of Correspondence; have appointed Conventions of Delegates to meet in the capital of Scotland. These conventions, during a course of four years, have, with the greatest labour and attention, prepared a solemn application to Parliament, on subjects which they avow to be of the deepest importance; and have, year after year, sent Delegates to London, in order to prosecute this application in Parliament. And for what end has all this been done by the Burgeffes? Why, according to the Town Councils,

(7)

cils, for no other purpose than to obtain redress of grievances, which only exist in the idle speculations of a few individuals, but which the Burgeffes themselves never before heard of; which they have never felt, and of which they are, in every respect, entirely ignorant! When the Town Councils shall find men capable of giving credit to tales so monstrous as this, they may then indeed hope for success in their opposition to Reform.

The Burgeffes of Scotland beg leave to assure the Public and the Legislature, that if they did not know thoroughly, and feel sensibly, the grievances of which they complain, the present application to Parliament never would have been heard of. They would have treated the visionary speculations of individuals, on the subject, with the same contempt with which they must necessarily behold that violent attachment to an absurd and unconstitutional system, which is displayed by the Magistracy and Councils, and that uncandid manner in which they chuse to conduct their opposition to a reasonable and just

(8)

just restoration and extension of the rights of their fellow-citizens.

Much has been ascribed to certain publications, in exciting and continuing a spirit of Reform; but if writings were necessary for that purpose, it may be safely affirmed, that none could have a more powerful effect, than the publications which have appeared on the part of the Town Councils.—Falsehood, misrepresentation, and that degree of arrogance which has induced the Town Councils to stigmatize the respectable Burgeffes of almost every town in Scotland, by the opprobrious name of “ insignificant clubs,” are very ill adapted to footh the tempers of men, already irritated by gross abuses, and by numberless acts of petty tyranny and oppression. What title have the few men who compose the Town Councils, who stand alone, and who are even divided greatly among themselves, in defence of slavery, to treat the great and respectable body of Burgeffes with such contemptible appellations? If, therefore, any person should think it necessary to use persuasion with the Burgeffes of Scotland, in order

to

(9)

to induce them to persevere in their present conduct, he certainly could not accomplish his object in a more effectual manner, than by offering the Town Councils a premium for distributing extensively their own publications among the Burgeffes. Such a measure, however, is by no means necessary. Reform is the effect of a long experience of oppression. It will, of course, be adhered to with inflexible perseverance.

If the Town Councils, instead of searching for visionary causes of Reform, would wish to discover its true origin, they will find it in the self-election of their own bodies, and in the gross abuses naturally incident to that species of power. These, in their progress, having reached the point beyond which they were no longer to be tolerated, Reform was the natural and necessary consequence. The measure was no sooner mentioned, than it was embraced with cordiality. As the same feelings of oppression every where existed, so the idea of Reform, like an electric shock,

B

seized

(10)

feized, as it were, in an instant a vast majority of the whole Burgeſſes of Scotland, from one end of the country to the other.

This is the real origin of Reform ; which no art can diſguiſe, and no duplicity or ſelf-intereſt can conceal from the knowledge of the Legiſlature or of the Public.

Having offered theſe general remarks, the Delegates ſhall very ſhortly advert to the particular articles contained in the Abſtract of *Facts*, *et cetera*.

I. *Convention of Boroughs.*

In the Abſtract of *Facts*, it is made a ſubject of complaint, that the Reformers treat this reſpectable body, this venerable remain of the ancient Conſtitution, with the indecency of diſreſpectful epithets. Hitherto, the Reformers have only ſaid, that the Convention is compoſed of Delegates from the Town Councils ; and notwithſtanding all the provocation which illiberality and abuſe could produce, they have never given the Convention any other epithet

or

[11]

or appellation. Their object is to obtain a national benefit from the juſtice of Parliament, and not to indulge in aſperity of language againſt any individuals, or bodies of men : but the ſpirit and matter of the preſent publication, on the part of the Magiſtrates, in its want of manners, truth, and candor, is ſo extraordinary, that it is extremely difficult to animadvert on it, without occaſional flaſhes of a juſt and excuſable reſentment.

The Town Councils repreſent this Body of Convention as a very uſeful inſtitution, and as a regular ſyſtem of police, with regard to the revenues and objects of trade.

The Delegates, without entering into any diſquiſition on that ſubject, ſhall mention, with regard to it, the opinion of Sir James Hunter Blair, late Preſes of Convention, who ſignified a ſtrong deſire to abolish that body, as an *inſtitution entirely uſeleſs*, at leaſt not worth the expence of the annual dinners given them by the town of Edinburgh. In a paper published by him, and circulated in Edinburgh, he,

B 2

after

(12)

after mentioning the annual expence incurred by the City of Edinburgh, in entertaining the Convention at their meetings, said, that this expence " must continue until the Convention is abolished; and, I confess, (says he) I think the whole charge of the Royal Boroughs Convention, is much greater than any benefit derived from it." These are the very words of Sir James Hunter Blair, who was Prefes of Convention in the year 1784, which are submitted without commentary.

To prove the utility of Convention, however, the Town Councils have annexed an account of *aids* and *contributions* to Boroughs, and of monies expended by the general Convention in relation to *general trade* and *national improvement*, for one hundred years back; and no doubt, to an unwary reader, this account, amounting to 355,081l. would present an object of great magnitude; but it must be remarked that this sum is Scotch money, and that the total amount of the account in sterling, is no more than about 29,000l. of which sum, 7200l. sterling was paid in salaries to a clerk

(13)

clerk or secretary, so that there only remains about 20,000l. sterling, which Convention have bestowed in *aids* and *contributions* to Boroughs, and in matters of *general trade* and *national improvement* throughout the whole country of Scotland, during a whole century!

This account, therefore, seems to establish the very reverse of the object intended by it; instead of shewing the great importance of Convention, it proves the insignificance of that body, how little it has done, and how little it is capable of doing, under the present wretched system of Borough government.

If the Convention of Boroughs, that languid and lifeless body, were capable of exerting, with regard to trade and manufacture, those active and extensive powers of which it boasts, just with as much truth as Falstaff continually boasted of his courage, what, pray, was the use of those institutions which have lately sprung up with so much energy and spirit in Scotland, under the name of Chambers of Commerce?— These are glaring proofs of the universal sense of

of the country, with regard to the Convention, and of how little confidence is reposed in it, in relation to the interest of trade.

But the Town Councils at present have a good reason for holding out as they do the great importance of Convention. They wish to have it understood, that in this body the matter of the public revenues of the Boroughs has for a century past been reduced to a regular system.

It is really astonishing that this idea of the jurisdiction of Convention, to call Magistrates to account, should be so often repeated, when it is so universally known to be perfectly groundless. The Burgeses do confidently affirm, that there is not a vestige of such jurisdiction in the Convention, and that it never was exercised by them. In this the Burgeses are supported by the unanimous opinion of the Barons of Exchequer in Scotland*.

* See also the Appendix to the Illustration of the principles of the Bill, where the History and Jurisdiction of Convention are fully explained.

It

It is true the Convention interposed sometimes by way of *mediation* to compose differences between Burgeses and Magistrates with regard to the revenues. The Burgeses may mention a curious example of the kind of jurisdiction, which the Convention was in use to exercise on such occasions; as appears from their own books.

Some considerable time ago a few of the Burgeses of Jedburgh complained of a misapplication of the revenues, by the Magistrates. The Convention, as usual, attempted to mediate between the parties, and the healing overture they proposed, (for they never pretended to exercise a judicial power, or compulsory jurisdiction) was, that the Burgeses, who complained of the misapplication of the public money, *should be brought into the Town Council*, which it was conceived would make them good and quiet citizens. This is the moderate and gentle remedy of every abuse. This is the easy and eligible mode of accounting, for which the practice of Convention affords precedent and example. If any Burgeses, says the Convention

vention to the Town Council of Jedburgh, has penetrating eyes to see abuses, and spirit to mention them, let him be taken into the Town Council, and he will soon alter his opinion. He will lose his eyes and his sense of abuse, and he will give you no manner of disturbance. He will become a sweet blooded, good-natured fellow, such as you yourselves are, and will never discover any ill-temper or factious spirit, unless you offer to turn him out of the Town Council.

It is the body that pronounced this mediatory decision, and never had any other power, as to the accounting, who, according to the *Abstract of Facts, &c.*, has reduced the matter of the Revenues to a regular system! The Delegates, instead of farther prosecuting this subject, beg leave to refer the Members to the opinions of the Lord Chief Baron and Sir John Dalrymple, Baron of the Court of Exchequer in Scotland, which, as far as concerns the jurisdiction of Convention, are annexed in an Appendix to this paper.

II. Man-

II. Manner of Accounting.

On this subject the Town Councils are evidently perplexed. They search every where for a jurisdiction of accounts, but can find it no where. In the Court of Exchequer there is none. In the Court of Session there is none. The jurisdiction of Convention is altogether ridiculous. The Town Councils, therefore, say, that the Lord Advocate, for His Majesty's interest, may sue an action of accounting against Magistrates; but such action never was before heard of in the law of Scotland.

The Councils, sensible that this is the case, are disposed to contend, that the King may grant a commission for a general inquisition into the affairs of Boroughs, and may then correct, in Council, every error or wrong in the administration of the Revenues.

Should this idea be adopted, the Burgeses of Kirkwall, Inverness, Aberdeen, and others, must come every year to attend the Privy Council at
 C London,

London, in order to settle the accompts. Can any thing be more ridiculous than this idle conceit of making the Burgesſes of Scotland to travel annually to London in order to settle accompts with the Magiſtrates in the Privy Council? or do they mean to ſay, that this ſort of peregrination is not to be undertaken annually, but that the Burgesſes ſhould have patience until a quantity of abuſe and malverſation has been collected, the clearing away of which may be worth the labour and expence of a London journey?

The Town Councils, on this ſubject, as if they were perfectly conſcious that there is no exiſting jurisdiction of accounts, conclude by declaring, that they will have no objection to its being enacted by a new law, that an action of accompting ſhall be competent at the inſtance of His Maſteſty's Advocate againſt Magiſtrates, on the information of private Burgesſes, providing that the private Burgesſes, on whoſe relation the Lord Advocate may proceed, ſhall be liable in coſts, in the event of
their

their being found to be in the wrong, beſides bearing the expence of the action.

This is a very generous conceſſion. In its effects it would turn out to be extremely harmleſs to the Magiſtrates. They would have few actions to fear from the relation of private Burgesſes, liable to be fought with the public money, in the hands of the Magiſtrates, and ſubject to the hazard of having coſts awarded againſt them.

In ſhort, it is utterly impoſſible that there ever can be a proper or efficient mode of accounting, unleſs there is eſtabliſhed, in every Town, a domeſtic jurisdiction, where redreſs, in the firſt inſtance, at leaſt, can be had with facility, and at a ſmall expence. The Burgesſes here ſpeak from the experience of more than two centuries; for although, by the act 1535, the jurisdiction of the accounts of Boroughs was certainly veſted in the Court of Exchequer, yet, owing to the great expence of ſuing in that Court, and the very great diſtance of moſt of the Boroughs, and other cauſes, *that jurif-*

dition never was regularly resorted to; on which account the Barons of Exchequer have lately found, that, by the law of Scotland, the Act of 1535 is in difuse.

III. *Alienations of the Public Property, Contractions of Debts, and Jobbing the Public Works.*

[And first, with regard to the alienations of the public property, and jobbing the public works.

Of these abuses, several examples, out of a great number which might be given, were specified in the late Resolutions of the London Committee, and the authority from which the facts have been taken, were expressly appealed to.

Some of these examples the Town Councils seem to deny; others they only endeavour to palliate. The Delegates, who have had no opportunity of corresponding with the Boroughs
since

since the present publication for the Town Councils appeared, must take the liberty of saying, that they have at present the utmost confidence in the truth of what has been advanced by the Committees in the different Boroughs, who certainly will be able, in proper time, to support their assertions by evidence. One thing the Delegates know with certainty, which is, that the historical accounts, now in the hands of Mr. Wilson, their solicitor, and from which the facts stated in the Resolutions have been taken, were printed and circulated among the Boroughs more than a twelvemonth ago, so that if they contained any errors, these might long ere now have been pointed out by the Magistrates and Councils. If the Town Councils obtained no copies, it was their own fault. The printing and publication were matters of public notoriety; and it is wonderful that the Town Councils should be ignorant of grievances, or historical accounts, which, they say, *were advertised for?*

In the next place, with regard to contraction of debt by the Town Councils, it was a
fact

fact of so much publicity, that nobody ever conceived it could have been denied. Hence it was that the Burgeses thought it quite unnecessary to give instances of a malversation, of which almost every town in Scotland can furnish an example. Indeed the Town Councils have not ventured *explicitly* to deny this important fact; they have only done it cunningly and obliquely, by saying, that the Burgeses have not specified any instances.

On the whole, there fall to be ranked under this head two important circumstances, to which the Burgeses request the attention of the Legislature, and which the Town Councils cannot and dare not deny. The *first* is, that a very great part of the public property of many of the Boroughs, and the whole of the property of some of them, *is actually gone*. And the *second* is, that the Boroughs of Scotland, are at the same time *overloaded with debt*. These are features of mal-administration too strong and too striking to be mistaken. If the Town Councils shall be bold enough to deny those capital facts, the Delegates are authorized

rized

rized to say, in the most direct and explicit manner, that the Burgeses will substantiate the same by evidence in Parliament.

The Town Councils insinuate, that because 100,000 pounds per annum still remains with the Boroughs, nothing could have been given away. This inference by no means follows: the Burghers positively affirm that a great part of the public property has been alienated, which they offer to substantiate. The only just conclusion therefore is, that anciently the public property must have been infinitely greater than at present*.

The Town Councils ask, what individuals are meant to be criminated? The Burgeses answer, that they enter not into that paltry consideration. Their object being to secure what remains of the public property, and to procure a beneficial, internal police, is superior to the crimination of a few individuals, who either have been, or are now, in the Councils,

* If the Town Councils *seriously* entertain doubts on this subject, let them look into the books of their own Convention, in which they will find a long list of alienations of public property.

and

and who could not make any adequate recompence to the Boroughs, even if their guilt were clearly established.

The Town Councils farther ask, what authority the President of Convention, in his letter to Mr. Pitt, had for saying, that the Police was neglected, and debts contracted?

The answer, as to one branch of this inquiry, is, that if the Magistrates will open their eyes and look at the very appearance of the Towns in which they live, and other circumstances, they will be overpowered with a conviction of the neglects of Police; and with respect to the contractions of debt, let them read the evidence before their eyes, which is distinctly stated in the late resolutions of the London Committee, and particularly the terms of the Act of Parliament 1693, which says, in express words, " That the public goods and revenues " have, *through the mal-administration of Magistrates, fallen into great debts and burdens.*" It were to be wished, that the Town Councils could give authority equally good for their different bold and confident averments. The

Burgeffes

Burgeffes would only beg leave to ask them one question; whether the Borough debts have diminished since 1693? For it is undeniable they were then in great distress, *through mal-administration of Magistrates.*

IV. *Imposition of Taxes without the Authority of Parliament.*

Of the exercise of this unconstitutional power, by the Town Councils of Scotland, the Committee might have given many examples: they have, however, confined themselves to two only; one in Glasgow, and another in Aberdeen. For evidence of the Fact, they have, in the most direct and explicit manner, appealed to the public Acts of the Councils of these different Boroughs. An attempt is now made, in the *Abstract of Facts*, to palliate these unjustifiable violations of the Constitution; and the Delegates shall consider separately what has been said with regard to each Borough.

And first, as to Glasgow,

D

The

(26)

The specific article stated in the resolutions of the Committee is, that the Magistrates of Glasgow have, by their own authority, actually imposed a tax on the inhabitants; being a tax on all potatoes brought into the Town. The fact of the imposition of this tax, neither is, nor can be denied. A very improper attempt to mislead is, however, made, by confounding the tax complained of with the land tax, which is widely different: this is a contemptible evasion. The specific charge made against the Council of Glasgow was, that they imposed a tax, without the authority of Parliament; but the Burgeffes could not mean that the land tax was levied without that authority: they meant, and specified, a tax of a different kind; and the matter was so very distinctly stated in the resolutions of the Committee, that it could not possibly be liable to any mistake: yet, the only answer made by the Common Councils is, "That every circumstance relating to the collection of land tax in Glasgow, has been examined and finally settled by the Supreme Civil Courts of Scotland."—What connection has this answer with the charge made?—

None

(27)

None in the world. The charge relates to one species of tax, and the answer concerns a species entirely different, which was not within the very meaning of the charge. This is a paltry and inexcusable manner of evading to answer clearly what cannot admit of defence, and what cannot be properly avowed in the face of a British House of Commons,

It is said, under this head, that if any person finds himself hurt by an imposition of taxes by the Councils, he may apply for legal redress. This is to insult the feelings of the indigent, and the understanding of the wealthy and intelligent. Must every person from whom a halfpenny or a penny is exacted sue out a separate action of repetition for every such penny or halfpenny daily or hourly exacted in the importation and sale of his commodities, or must he wait patiently till the end of every year, or two years, and then bring his action, when a sum worth suing for may have been extorted from him? Such are the inexplicable absurdities into which men will always run who are driven by narrow principles, or interested

D 2

rested

rested motives, to defend positions legally untenable or palpably unconstitutional.

With regard to the illegal exactions of sums of money, in name of Cefs, or Land-tax, they are a distinct article, as are also the dues of entering Burgesfes.

Aberdeen,

So stands the Fact with regard to Glasgow; what is said about Aberdeen falls next to be considered.

The taxes here imposed by the Magistrates, as well as the manner of imposing them, are accurately described in the resolutions of Committee.

The facts are incontestable, and the Town Councils, bold as they are in their averments, have not ventured to contradict them. All they say is, that the richest Citizen of Aberdeen pays not above *seventeen shillings per annum* of Burgher taxes, that is, of taxes imposed by the authority of the Magistrates. Here the Magistrates are forced to admit that they

they exercise an illegal and unconstitutional power of imposing taxes. They only defend themselves by saying that the quantum of the tax is small. The avowal and defence of such a doctrine was scarcely to be expected. That illegal power, the exercise of which contributed to the ruin of a Royal family, is at this day claimed and defended by the Magistrates of Aberdeen, *and threatened to be enforced by quartering of Soldiers in the houses of the inhabitants.**

It is needless to say that if the principle of imposing taxes is once established in that body, they may soon make the quantum what they please. There can, however, be no doubt that both the principle and the practice will be reprobated with indignation by the Representatives of the people in Parliament, whose duty and inclination it always has been to defend the rights of the people, and more particularly to protect them from illegal exactions of money under any pretence whatever.

* See the advertisement from the Magistrates of Aberdeen in the Journal of the 20th of May, 1788.

It

It is said, that whatever may be in these enormities, the Burgeses propose no remedy different from the common law.

It is answered, that if the elections of the Common Councils were in the Burgeses, they would have a pretty good security against such acts of oppression in time coming; but should this be attended with any doubt, it would certainly be proper to make provision against it, by an enactment in the proposed bill.

V. *Illegal exactions in name of Cefs.*

To what is said on this subject in the resolution of Committee, the Town Councils have made no answer, except as to the article alone which respects Aberdeen, where above 1000l. more than was due by law, was exacted in name of Cefs, during the course only of six years,* besides about 40,000l. levied in the same manner in former times.

* See the account in the Appendix, No. II.

In

In answer to that article of illegal exaction in Aberdeen, the Town Councils have said that it has already been a subject of a special action at the suit of certain of the Reformers at Aberdeen, before the Court of Session in Scotland, "and that after a full and deliberate hearing, and evidence on both sides, the action was dismissed as groundless." But the Delegates are authorized by the Burgeses of Aberdeen to say that the tale here told by the Town Councils, is a mere fiction. There never was any action, hearing, evidence, or determination in the Court of Session, relative to the illegal exactions in name Cefs, at Aberdeen; and they believe the Magistrates, in their usual way of confounding one thing with another, have reared this fiction about the Cefs, on the foundation of what happened with respect to the dues of entering Burgeses, in which the Reformers had no manner of concern.

It is true that with regard to this last-mentioned article, there was a decision in the Court of Session, which has been fairly mentioned in the resolutions of Committee.

The

Entry Money of Burgeses.

(32)

The Court of Session found that the Magistrates and Council had a right to raise the entry money of Burgesſes without any limitation: how far that deciſion was right or wrong, is not now the queſtion, and never was meant to be made a queſtion in this place; but the Burgeſſes cannot help thinking that ſuch an arbitrary and diſcretionary power in a ſet of men who are ſelf-elected, of raiſing, ad libitum, the entry money of Burgeſſes, is an evident engine of oppreſſion in their hands, and may be uſed to the worſt of purpoſes in every Borough of Scotland. If the legal right of raiſing the entry money of Burgeſſes at diſcretion is ſuppoſed to be clearly eſtabliſhed, the caſe in the opinion of the Burgeſſes is ſo much the worſe, and affords a very ſtrong reaſon for the interpoſition of Parliament, to put an end to the ſelf-election of the Councils, whereby the people may have ſome ſecurity againſt the abuſe of a diſcretionary power, which otherwiſe the caprice or partiality of men, ſelf-elected, and totally independent of the citizens, may employ for purpoſes illiberal, impolitic, and injurious to the intereſt of trade and manu-
 facture,

(33)

facture, which in fact they have already done in the Borough of Aberdeen.

The Town Councils are very copious on the ſubject of the battery they built, but of which they made no uſe when the property of the ſubject was in the moſt imminent danger. This is a matter of public notoriety, but on that ſubject the Delegates ſhall be extremely ſhort. The affair of the battery was only ſtated as an example of thoſe diſcretionary ſtretches of power in which the Magiſtrates chuſe to indulge themſelves, and the fact is clear beyond diſpute. The Magiſtrates are forced to admit that they were bound by the Act of Parliament to apply the money for improving the harbour; and that they have, *de facto*, applied it in building a battery, which is all that the Burgeſſes had ſtated, and which affords ſtrong proof of that latitude of interpretation, even of the expreſs words of an act of Parliament, to which Magiſtrates have recourſe, in order to ſerve particular purpoſes.

E

The

(34)

The only defence they set up is, that a battery is a *necessary appendage of a harbour*. This is submitted without any commentary. The Magistracy, it would appear, are as subtle in argument, as they are arbitrary in determination.

VI. *Illegal Exemptions from the Duty of Quartering Soldiers.*

On this subject, the Magistrates have chosen to observe a profound silence.

VII. *Magistrates and Counsellors of Scotch Boroughs resident in remote parts, in England, Newfoundland, and Hindostan.*

On the subject of this glaring abuse, the Magistrates have chosen to observe a profound silence.

CONCLUSION.

The Delegates have thus examined, and they hope, short as the time was, they have sufficiently refuted every thing in the Abstract
of

(35)

of *Facts, et cetera*. The Town Councils, it would appear, chuse to fight in ambush. They conceal their weapons as long as they can, and only drag them out from under cover, at a time when they imagine the enemy is unguarded, and unable to defend. The *Abstract of Facts* accordingly did not make its appearance till the very day on which the question was to have been agitated in the House of Commons; but an accidental circumstance has occasioned its being postponed, and has afforded to the Burgeffes an opportunity of repelling the intended blow. In future, they trust, that the Town Councils will lay aside the filetto, and if they mean to persevere in their hostilities, will carry on the manly and open warfare of British subjects.

There are two circumstances in the question under consideration, which, in point of fact, cannot be controverted, and which, in point of importance, demand the utmost attention of the Legislature.

E 2

The

The one is the want of a Judicature of ac-
compts—the other, and more important, is the
self-election of the Town Councils, with the
numberless train of evils naturally and necessa-
rily incident to that species of petty tyranny or
unconstitutional power. Besides the gross abuses
enumerated in the Resolutions of Committee,
the self-election of Councils is attended with a
multitude of evils, felt by the Burgeses, too
vexatious to be borne, and too many as well
as too minute for description. It is, indeed,
impossible to give a just or full picture
of the various ways in which the insolence, the
caprice, the malevolence, or interested motives
of self-created and independent administrators
may discover themselves towards the Citizens.
It is sufficient at present to say, that the op-
pression of their conduct, in various ways, is
universally felt, and loudly complained of; and
the Burgeses now earnestly implore the inter-
position of the wisdom and justice of Parliament
to afford them effectual redress.

The Delegates shall only farther take notice
of one observation made by the Town Councils
in the Abstract of *Facts, et cetera.*

Here it is said, that the Reformers hold prin-
ciples hostile to the constitution of their coun-
try. This is a bold assertion, without authority
or evidence; but it is not more bold than it is
false and calumnious.

The Reformers feel themselves attached in
the warmest manner to the constitution of their
country, and the family of their Sovereign;
nor could the Town Councils have ventured to
assert the contrary, unless they had widely mis-
taken the very nature of the Constitution. Find-
ing themselves the masters of petty tyrannies,
they have measured the constitution of this
country by the same rule; and therefore they
naturally imagine that those who claim any
degree of freedom, are hostile to the Constitu-
tion. But the real state of the case is precisely
this: The Town Councils strenuously, even
violently, contend for the preservation of a set
of

(38)

of little, contemptible, though oppressive tyrannies, in the very heart of a country which justly boasts of its enlightened Legislature, and of its exalted freedom. The Burgesses of Scotland, on the other hand, with great moderation, contend for the destruction of those insignificant despotisms, which equally injure and disgrace the country, and for the introduction of a proper degree of constitutional freedom in the internal government of the Royal Boroughs. It is then left with the candor and impartiality of the Public, and of the Legislature, to determine which of the two contending parties in this question maintain principles hostile to the constitution of their country, whether it is the friends of freedom, or the abettors of slavery?

(39)

A P P E N D I X.

No. I.

Notes of the Opinions of the Lord Chief Baron, and Sir John Dalrymple, Baron of His Majesty's Court of Exchequer in Scotland, with regard to the Jurisdiction of the Convention of Boroughs. These Opinions were delivered in the Question agitated before the Barons, between the Burgesses of Dumbarton and the Magistrates, with Respect to the accounting.

LORD CHIEF BARON.

“ THE question submitted to the consideration of
 “ the Court, is, whether the Act 1535 is a subsisting
 “ law, and binding upon this Court of Exchequer?
 “ As in the case of Selkirk, the Lords of Session enter-
 “ tained a doubt, whether they had jurisdiction to take
 “ up this matter; therefore (argued the petitioners) if
 “ the

“ the jurisdiction does not lie with this Court, it lies
 “ no where, and a remedy will be altogether wanting.
 “ The defenders feeling the force of this argument, en-
 “ deavoured to remove it, by shewing such a jurisdic-
 “ tion to subsist, and to have been exercised in the Con-
 “ vention of Royal Burghs. I have looked into every
 “ *Act of Parliament* concerning the Convention, and
 “ neither in them, nor any where else, can find a single
 “ word giving, or seeming to give, this jurisdiction to the
 “ *Convention*. Traffic and police, and matters relating
 “ to them, were placed within their cognizance, but no
 “ judicative power to determine any thing whatsoever.
 “ Indeed, for the examination and control of the ex-
 “ penditure of Borough Revenues, no judicature could
 “ be conceived more improper than this of the Convention;
 “ a body appointed by the very Magistrates, whose
 “ conduct they were to review, fluctuating and un-
 “ certain, without any summons, process, proper
 “ officer, or any other requisite for executing such a
 “ jurisdiction.”

SIR JOHN DALRYMPLE.

“ AS to the Convention, here again it must be
 “ asked, on which side does the public good lie? Let
 “ us consider the constitution of the Convention of
 “ Royal Boroughs. The Magistrates send the Mem-
 “ bers; and is a body made up of the defaulters them-
 “ selves to try these defaulters? For all the acts and
 “ commissions proceed upon a narrative of the malver-
 “ sation of the *Magistrates*. No trace of this power of
 “ the

“ the Convention is to be found either in the *statutes*,
 “ or in the books of the *common law of Scotland*. From
 “ the opinion of Duncan Forbes, and James Graham,
 “ read by my Lord Advocate, it appeared that there
 “ had been two acts of Convention, one in 1670, and
 “ the other in 1706: by the first it was declared, that
 “ questions between Burgh and Burghs should be de-
 “ termined by the Convention, and without appeal;
 “ by the second it was declared, that the Convention
 “ should have the power of *mediating* between Burgh
 “ and Burghs in public concerns, and whosoever did
 “ not submit to *that mediation*, was to be held a breaker
 “ of the peace of Burghs, a contemner of the autho-
 “ rity of Convention, and *fined*; which two acts shew,
 “ that the jurisdiction of the Convention was *private*,
 “ of consent, of *prorogation*, *self-created*, and *illegal*.”

In these words the Lord Chief Baron and Sir John Dalrymple, expressed their opinions of the jurisdiction claimed by the *Convention of Boroughs*; and with their opinions, on this point, all the other Barons agreed.

Sir John Dalrymple farther added, “ I shall lay
 “ out of the question two specialities, which were
 “ mentioned by the Counsel for the defenders, to
 “ wit, its being a branch of a *visionary Reform*, and
 “ an engine of *party* in the petitioners. I will
 “ confess myself a friend to Reform. If no Re-
 “ form, no reformation, no revolution; your Lord-
 “ ships would not have been sitting here as
 “ Judges,

An articulate Account of the illegal Exactions in Name of Cefs at Aberdeen during six Years.

LAND-TAX, or King's Subsidy, proportioned by the stent roll on Aberdeen, when the Land-tax in England is 4s. in the pound, is,

Sterling - £. 487 6 4

Necessary Expences.

Clerk's salary	15 0 0
Two new books 20s., ditto for summing	1 17 6
17s. 6d.	12 8 0
Four quarter officers	2 2 0
Attendant on the taxes	0 10 0
Bellman	2 10 0
Printer	

Salary for a collector, 30l. sterling, although it has been collected in the course of the last 20 and 25 years, along with the Borough taxes for wells, streets, and lamps, at 15l. 20l. 25l. and 30l. per annum, discount, from the total sum of the taxation book, when exposed to public roup, and undoubted security found, - - - 30 0 0
Add to this, the collector had formerly no accommodation at the Town House, where the money is now collected.

£. 551 13 10
But

But in place of the before-mentioned sum, which is fully sufficient to pay the cefs and expences of collecting, the Board of taxes have assessed the citizens for the last six years in the following sums:

	Sum Total.	Surplus.
In 1778, at 1s. 11d. per 100l. on trade, heritages, &c.	£. 685 16 6 $\frac{1}{4}$	134 2 8 $\frac{1}{4}$
1779 at 2s. Ditto	709 2 0 $\frac{1}{4}$	157 8 2 $\frac{1}{4}$
1780 2s. 1d. Ditto	743 4 6	191 10 8
1781 2s. 1d. Ditto	766 16 3	215 2 5
1782 1s. 10d. Ditto	688 10 8 $\frac{1}{2}$	136 16 10 $\frac{1}{2}$
1783 2s. Ditto	723 5 5 $\frac{1}{4}$	171 11 7 $\frac{1}{4}$
	£. 1006 12 5 $\frac{1}{4}$	

The following statement shews the sums collected for wells, streets, and lamps, said by the Magistrates to be imposed by authority of head Courts, in the course of six years, but which acts the Burgeses affirm were passed without any regular, previous intimation, and altogether without their particular knowledge or consent.

In 1778	369 4 0
1779	367 19 0
1780	358 6 0
1781	359 1 0
1782	355 10 0
1783	360 3 0
	2170 3 0

Respecting

*Respecting the extra Payments for Land Tax, from the
Union downwards.*

THE only answer which the Council of Aberdeen have given to this charge is, that, "in reciting this story the Reformers have adopted a mode of calculation, which leaves, and always will leave, the result in their own power. In place of 60,000l. surplus land tax, they could by the same means, and with equal ease, have made it up 100,000l."—The truth is, that the Burgeses made the sum neither more nor less than it appeared upon examination to be—"The examination," say the Burgeses, in a Memorial to the Council, 21st September, 1786, "was conducted with all the accuracy possible, from the period of the Union till the present time, stating the balances received from the citizens, after every charge for "laying on and in gathering" had been allowed; and, agreeable to the rule laid down by the Council, charging interest upon these balances, by which the general balance against the Treasury, and at the credit of the citizens, is 44,000l. sterling."—The probable accuracy of this account will readily be admitted when the Burgeses refer to the above statement, where the amount levied from the citizens above what the law authorized was 1006l. 12s. 5 $\frac{3}{4}$ d. in the course of six years only, from 1778 to 1783 inclusive.

No. III.

No. III.

*The Council's Act of Election of the Taxers of
Aberdeen, 1785.*

AT Aberdeen, the 22d day of October, 1785 years, in presence of the Provost, Baillies, and Town Council of Aberdeen. The said day the Council did, and do hereby elect and appoint the following persons, viz. Baillie John Copland, Baillie Alexander Black, James Masson, late treasurer, Ninian Johnston, William Duguid, senior, George More, Robert Moir, Joseph Sampson, William Littlejohn, William Gibbon, James Gibbon, George Strachan Keith of Auquorik, Patrick Duguid, George Auldjo, late dean of Guild, Thomas Bannerman, James Cruikshank, junior, Baillie John Auldjo, Alexander Mitchell, James Allardice, dean of Guild, and James Hadden, treasurer, all merchants in Aberdeen, Alexander Duthie, advocate there, John Lamb, wright, and Adam Watt, baker, to be taxers and stent-masters, for taxing and stenting the inhabitants of the said Burgh, and freedom for their trade and heritage, from Martinmas 1784, to Martinmas 1785, in the sum of four hundred and eighty-seven pounds, six shillings, and four pence sterling, for His Majesty's subsidy, due and payable by this Burgh, upon the 24th of June, 29th of September, and 25th of December, 1785 years,

years, and 25th of March next, 1786, conform to the rules and regulations already established; and also for taxing and stenting the inhabitants of the said Burgh for the support of the public wells, water course, and fountains, from Whitsunday last, to Whitsunday next, in the following sums of money, viz. one hundred and fifty-five pounds, eight shillings and four pence sterling, for the interest of the debt contracted, and still due by the town, on account of the said wells and water course; twenty-five pounds sterling, as the yearly salary payable to the overseer of the said wells, and twelve pounds ten shillings sterling, for payment of part of the stock of said debt; and likewise for the support and maintenance of the public lamps for the said year, from Whitsunday last to Whitsunday next, agreeable to former acts of Council and Head Court, particularly conform to an act of Head Court, of date the 26th of September 1769, by which the said taxation on wells and lamps is appointed thereafter to be joined in one branch, and the maximum of taxation of any one person therefore is ordained to be twelve shillings sterling: and lastly, for taxing the inhabitants of said Burgh in the sum of fifty pounds sterling, for repairing the public streets, for the foresaid year, to be levied and collected along with the said taxation on wells and lamps, in terms of an act of council and head court, of date the 23d and 24th of September 1776, by which the maximum to be stented upon any one person for streets, is appointed not to exceed five shillings sterling; and all the foresaid sums, to be stented and taxed for, to be by and attour the charge and expence

pence of laying on, levying, and collecting thereof, which is to be proportioned upon the king's subsidy, and on the street, water, and light monies aforementioned, and to be also taxed for, along with the said taxation itself: and did and do hereby ordain the said taxation, when so taxed and stented, to be paid in to the said James Hadden, treasurer of Aberdeen, and all execution necessary to pass thereon at his instance, against the whole persons liable in payment of the same; for all which, these presents shall be sufficient warrant for that effect.

Extracted from the council register by

ALEXR. CARNEGIE.

No. IV.

*Act of Council electing the Taxers of Aberdeen,
23d October 1786.*

AT Aberdeen, the twenty-third day of October, seventeen hundred and eighty six, in presence of the Magistrates and Town Council of Aberdeen. The said day the Council elected and appointed, and hereby elect and appoint the following persons, viz. Baillie John Copland, Baillie George Auldjo, Andrew Allardyce, dean of guild, George More, treasurer, James Allar-

(50)

Allardyce, late dean of guild, James Hadden, late treasurer, Ninian Johnston, Robert Moir, Peter Duguid, Alexander Mitchell, Baillie George Adam, Charles Farquharson, Charles Walker, and Thomas Leys, all merchants in Aberdeen, George Strachan Keith of Auquhorfk, Alexander Duthie, and David Morice, junior, advocates in Aberdeen, Captain James Gibbon, shipmaster there, Deacon Archibald Reid, baker, and Deacon James Meldrum, shoemaker there, to be taxers and stentmasters, for taxing and stenting the inhabitants of the said borough and freedom, for their trade and heritage, from Martinmas seventeen hundred and eighty five, to Martinmas seventeen hundred and eighty six, in the sum of four hundred and eighty-seven pounds, six shilling and four pence sterling, for His Majesty's subsidy, due and payable by this Burgh upon the twenty fourth of June, twenty ninth of September, and twenty fifth of December seventeen hundred and eighty six years, and twenty fifth of March next 1787, conform to the rules and regulations already established; and also for taxing and stenting the inhabitants of the said Burgh, for the support of the public wells, water course and fountains, from Whitfunday last to Whitfunday next, in the following sums of money, viz. one hundred and fifty-four pounds fifteen shillings and ten pence sterling, for the interest of the debt contracted, and still due by the town, on account of the said wells and water course; twenty-five pounds sterling, as the yearly salary payable to the overseer of the said wells; and twelve pounds, ten shillings sterling, for payment of part of the stock of said debt: and likewise for the support and main-

(51)

maintenance of the public lamps for the said year, from Whitfunday last to Whitfunday next, agreeable to former acts of Council and Head Court, particularly conform to an act of Head Court, of date the 26th of September 1769, by which the said taxation on wells and lamps is appointed thereafter to be joined in one branch, and the maximum of taxation of any one person therefore is ordained to be twelve shillings sterling; and lastly, for taxing the inhabitants of the said Burgh in the sum of fifty pounds sterling, for repairing the public streets for the aforesaid year, to be levied and collected along with the said taxation on wells and lamps, in terms of the act of Council and Head Court, of date the 23d and 24th of September 1776, by which the maximum to be stented upon any one person for streets, is appointed not to exceed five shillings sterling; and all the foresaid sums so to be stented and taxed for, to be by and attour the charge and expence of laying on, levying, and collecting thereof, to be taxed for, along with the said taxation itself, and which the Council enjoin, shall not exceed one hundred pounds sterling, at most, agreeable to an act of Council of their predecessors, of date the twenty fourth of May last, and ordain the said taxation, when so taxed, and stented, to be paid in to the said George More, treasurer of Aberdeen, and all execution necessary to pass thereon at his instance against the whole persons liable in payment of the same; for all which these presents shall be sufficient warrant to that effect. *Extracted from the Council register of the Burgh of Aberdeen by*

(Signed) ALEXR. CARNEGIE.

G 2

These

These acts shew, that the Council of Aberdeen not only elect the taxers, chiefly of their own body and immediate connections, but that they instruct in the specific amount of every sum to be levied upon the citizens; and above all, as an instance of their *extreme moderation*, direct them to assess for a sum *not exceeding* 100l. sterling, as the expence of levying and collecting the land tax - - - £. 487 6 4

And taxes for streets, water, and lamps, imposed by their own authority - 350 0 0

£. 837 6 4,

although the whole is to be collected in one week, under the terror of soldiers being quartered in the houses of the inhabitants—See advertisement of the Magistrates of Aberdeen, 20th of May, 1788, in Observations of the Delegates on State of Facts—Appendix, page 9.—Of these taxes, “154l. 15s. 10d. is said to be for the interest of the debt contracted, and still due by the town, on account of the wells and water course;” but which sum the citizens find, upon examination, was extinguished, and a surplus drawn from them to the amount of 5000l. sterling—Upon this subject the citizens presented a Memorial to the Council the 21st of September, 1786, but no answer was given to it.—Thus the Magistrates of Boroughs not only consider themselves as not liable to account to the citizens for the common property of the community, but when the Burgesses presume to remark upon the assessments imposed by the Magistrates, and the expenditure of the same, they are treated by these rulers with the most supercilious neglect.

Upon

Upon the subject of the extra levies in the name of Cess, the citizens of Aberdeen have presented repeated Memorials to the Council, and they have expressed themselves, in consequence of the inefficacy of these Memorials, in the following manner:—“The abuse of levying and collecting sums of money above the extent which is warranted by law, is certainly a grievance of a nature as aggravated as a free people can have to complain of. If the limits which the law has fixed are once overleaped, the security against oppression is utterly destroyed; for if the executors of a law take the liberty of establishing rules for themselves, to be varied at discretion, then we are no longer under the influence of *the law*, but under that of *men*, subject to a variety of inclination and opinion, and to decisions the most fluctuating, arbitrary, and capricious.”—That these opinions are well founded, the inhabitants of Aberdeen know from deep experience. Part of the taxes which they pay annually have been shewn in the preceding state; nor have they ever wished to be exempted from taxes, if regularly laid on, and faithfully and usefully applied. To propositions on this subject they have always met with insult and neglect from their imperious rulers. It has been said, that “more taxes are paid by a dozen citizens, and a few companies, than by the whole of the pretended Reformers of Aberdeen.”—This is one of these bold, but groundless, assertions which the Magistrates constantly have recourse to.—It is most certainly a bare-faced and palpable deception. The gentlemen who approve of Reform in Aberdeen have ever

ever wished to avoid comparisons; but they undoubtedly are entitled to say, that they pay a proportion of taxes, equal, in many instances far above, the greater part of those who have been in Council for the last twenty years. Indeed there are very few mercantile companies in Aberdeen, of which the gentlemen connected with Reform, are not members—The Banking Company, the great Prentfield Company, the Brewery Companies, and the Shipping Companies, can produce partners from among these gentlemen—and the Magistrates well know, that the measure of Reform is very generally, and very cordially approved of in Aberdeen. With respect to the revenue of the town, it may be just necessary to say, that, in 1756, it was 1102l. 12s. 3½d. that by the industry and spirit of the citizens in improving the commons in the vicinity of the town, and other combining circumstances, it had risen in 1785 to 1883l. 16s. 7d. Yet although the inhabitants have borne the whole weight of every tax for police, and have submitted to an additional tax on their trade for the improvement of the harbour of 500l. a year, and have readily assisted in every occasional improvement, the debt of the Community has increased to 12,383l. 14s. 7d. These facts require no commentary.

Respecting the power which the Magistrates have exercised in raising the dues of admitting Burgeses, they have said, in apology, “ that the chief Boroughs in the kingdom have adopted that measure; whereas the rates of Aberdeen continued the same for one hundred and fifty years.” Whatever there may be

in

in that, it would have been but fair to have acknowledged, that, before these dues were raised double, they were higher at Aberdeen than in any other Borough in Scotland, *Edinburgh* and *Glasgow* not excepted.

Respecting the battery, one sentence more may be necessary—“ It is said, on the part of the Magistrates, that the merchants and ship-owners applied in a body to have the harbour protected by proper works.” This is one of the bold assertions which have been already taken notice of. The merchants and ship-owners never conceived that the harbour funds were to be affected by this expence. If the battery had been deemed indispensably necessary, they would have readily furnished any sum needful — but that it should have cost half the money laid out upon it, has raised the astonishment of every inhabitant of Aberdeen.

As to its “ *protection*,” it is well known that the *Liberty Privateer*, the only vessel ever in danger under its guns, was captured by the enemy in sight of the whole inhabitants. The improvement of the harbour has been spoken of in high terms of commendation by the Magistrates, who take great praise to themselves on that account—What it *is*, and what it *should have been*, with the expence laid out upon it from the pockets of the citizens, the merchants and ship-owners well know. They know with great certainty, that a vessel from London, or any out port, shall

0531

(56)

shall lye in the river for a fortnight without being able to get to the quay to unload her cargo.—The *improvements of cleaning and deepening the harbour* may easily be conceived from this circumstance alone.