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Sketch II. Government of Royal Boroughs in Scotland.

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## S K E T C H II.

## Government of ROYAL BOROUGHS in Scotland.

**B**Y a royal borough is in Scotland understood an incorporation that hold their lands of the crown, and are governed by magistrates of their own naming. The administration of the annual revenues of a royal borough, termed the *common good*, is trusted to the magistrates; but not without control. It was originally subjected to the review of the Great Chamberlain; and accordingly the chap. 39. § 45. of the *Iter Camerarii*, contains the following articles, recommended to the Chamberlain to be enquired into. “ Giff there be an good assedation and uptaking of the  
 “ common good of the burgh, and giff faithful compt be made  
 “ thereof to the community of the burgh; and giff no compt is  
 “ made, he whom and in quhaes hands it is come, and how it  
 “ passses by the community.” In pursuance of these instructions, the Chamberlain’s precept for holding the ayr, or circuit, is directed to the provost and bailies, enjoining them, “ to call all those  
 “ who have received any of the town’s revenues, or used any of-  
 “ fice within the burgh, since the last chamberlain-ayr, to an-  
 “ swer such things as shall be laid to their charge.” *Iter Camer. cap. 1.* And in the third chapter, which contains the forms of the chamberlain-ayr, the first thing to be done after fencing the court, is, to call the bailies and serjeants to be challenged and accused from the time of the last ayr.





This office, dangerous by excess of power, being suppressed, the royal boroughs were left in a state of anarchy. The magistracy, being now no longer under any check or control, was coveted by noblemen and gentlemen in the neighbourhood; who, under the name of office-bearers, laid their hands on the revenues of the borough, and converted all to their own profit. This corruption was heavily complained of in the reign of James V.; and a remedy was provided by act 26. parl. 1535, enacting, 1st, That none be qualified to be provost, bailie, or alderman, but an indwelling burges. 2dly, "That no inhabitant purchase lordship out of burgh, to the terror of his comburgesses. And, 3dly, That all provosts, bailies, and aldermen of boroughs, bring yearly to the chequer at a day certain, the compt-books of their common good, to be seen and considered by the Lords Auditors, giff the same be spended for the common well of the burgh, or not, under the penalty of losing their freedom. And that the saids provosts, bailies, and aldermen, warn yearly, fifteen days before their coming to the chequer, all those who are willing to come for examining the said accounts, that they may impugn the same, in order that all murmur may cease in that behalf." And to enforce these regulations, a brieve was issued from the chancery, commanding the magistrates to present their accounts to the exchequer, and summoning the burgeses to appear and object to the same.

A defect in this statute made it less effectual than it was intended to be. Magistrates, to avoid the penalty, brought the count-books of their common good to the exchequer; but they brought no rental of the common good to found a charge against them. This defect was remedied by act 28. parl. 1693, containing the following preamble. "That the royal boroughs, by the male-administration of their magistrates, have fallen under great debts and burdens, to the diminution of their dignity, and the disabling



“ abling of them to serve the crown and government as they  
“ ought; and that the care, oversight, and control of the com-  
“ mon good of boroughs, belong to their Majesties by virtue of  
“ their prerogative-royal; therefore, for preventing the like abuses  
“ and misapplications in all time thereafter, their Majesties sta-  
“ tute and ordain, That every burgh-royal, shall, betwixt and  
“ the first of November next, bring to the Lords of Treasury and  
“ Exchequer, an exact account of charge and discharge, subscri-  
“ bed by the magistrates and town-clerk, of their whole public-  
“ good and revenues, and of the whole debts and incumbrances  
“ that affect the same.” This completed the remedy, by putting  
means into the hands of the Barons of Exchequer, to control  
the accounts enjoined by the former statute to be yearly given in.

The foregoing regulations are kept in observance. Every year  
a precept issues from the exchequer, signed by one of the Barons,  
addressed to the director of the chancery, requiring him to make  
out a brieve for every royal borough. The brieve is accordingly  
made out, returned to the exchequer, and sent to the several  
sheriffs, to be served in all the royal boroughs within their  
bounds, as directed by the statute. These brieves are accord-  
ingly so served by the sheriffs; and particularly it is a constant form  
in most of the royal boroughs, to issue a proclamation, fifteen days  
before the day named for appearance in exchequer, warning the  
inhabitants to repair there, in order to object to the public ac-  
counts of the town: and further, in order to give them opportu-  
nity to frame objections, the book and counts are laid open for  
these fifteen days, to be inspected by all the inhabitants.

We learn from the records of exchequer, that from the year  
1660 to the year 1683, accounts were regularly given in to ex-  
chequer, in obedience to the statute. The town of Edinburgh  
only having failed for some short time, Captain Thomas Hamil-  
ton merchant there, by an action in exchequer, compelled the  
magistrates





magistrates to produce upon oath their treasurer's accounts, which were accordingly audited. And we also learn, that from the Restoration down to the Union, a clerk to the borough-roll was appointed by the crown, whose proper business it was to examine and audite the accounts of the boroughs.

Notwithstanding the foregoing salutary regulations, and the form constantly practised to make them effectual, the boroughs of late years have forborn to present their accounts in exchequer; hoping that they would be overlooked by the English court of exchequer, established in Scotland after the Union; which accordingly happened. This neglect in the court of exchequer is greatly to be regretted, because it reduces the royal boroughs, by the male-administration of their magistrates, to the same miserable condition that is so loudly complained of in the statutes above mentioned. It is undoubtedly in the power of the Barons to restore good government to the boroughs, by compelling the magistrates to account yearly in the court of exchequer, according to the foregoing regulations. And to that end no more is necessary, but to signify publicly that they are resolved hereafter to put these regulations in execution.

How beneficial that step would be to this country in general, and to the royal boroughs in particular, will appear from considering, first, the unhappy consequences that result from suffering magistrates to dispose of the town's revenues, without any check or control; and next the good effects that must result from a regular and careful management, under the inspection of the King's judges.

The unhappy consequences of leaving magistrates without any check or control, are too visible to be disguised. The revenues of a royal borough are seldom laid out for the good of the town, but in making friends to the knot who are in possession of the magistracy; and in rioting and drunkenness, for which every pre-

text





text is laid hold of, particularly that of hospitality to strangers. Such mismanagement tends to idleness, and corruption of manners; which accordingly are remarkable in most royal boroughs. Nor is the contagion confined within the town: it commonly spreads all around.

Another consequence, no less fatal, of leaving magistrates to act without control, is a strong desire in every licentious burgher, of stepping into the magistracy, for his own sake, and for that of his friends. Hence the factions and animosities that prevail in almost all the royal boroughs; which are violently and indecently pursued, without the least regard to the good of the community.

The greatest evil of all, respects the choice of their representatives in parliament. A habit of riot and intemperance, makes them fit subjects to be corrupted, by every adventurer who is willing to lay out money for purchasing a seat in parliament. Hence the infamous practice of bribery at elections, which tends not only to corrupt the whole mass of the people, but, which is still more dreadful, tends to fill the House of Commons with men of dissolute manners, void of probity and honour.

But turning from scenes so dismal, let us view the beautiful effects that result, from an administration regularly carried on, as directed by the statutes above mentioned. The revenues of the royal boroughs are supposed to be above L. 40,000 yearly. And were this sum, or the half of it, prudently expended, for promoting arts and industry among the numerous inhabitants of royal boroughs, the benefit, in a country so narrow and poor as Scotland, would be immense: it would tend to population, it would greatly increase industry, manufactures, and commerce, beside augmenting the public revenue. In the next place, as there would be no temptation for designing men to convert the burden of magistracy into a benefit, faction and discord would vanish; and there would be no less solicitude to shun the burden, than at present





present is seen to obtain it. None would submit to the burden but the truly patriotic, men who would cheerfully bestow their time, and perhaps their money, upon the public; and whose ambition it would be to acquire a character, by promoting industry, temperance, and honesty, among their fellow-citizens.

And when the government of the royal boroughs comes to be in so good hands, bribery, which corrupts the very vitals of our constitution, will be banished of course. And considering the proper and constitutional dependence of the royal boroughs upon the king's judges, we may have reasonable assurance, that few representatives will be chosen, but who are friends to their country and to their sovereign.

S K E T C H

