

1780. *January 12.* JAMES HILL *against* THOMAS HOPKIRK and JOHN M'CALL.

## BURGH-ROYAL.

Powers of the Town-Council to inflict fines on Burgesses refusing to accept of offices within the Burgh.

[*Faculty Collection, VIII. 187; Dictionary, 10,995.*]

BRAXFIELD. Magistrates have a discretionary power to oblige burgesses to serve: but here the Magistrates, after the regulation 1748, could not impose a new fine.

COVINGTON. I am not fond of allowing burgesses to buy off, although the practice is such in many boroughs, and even in London.

HAILES. Perhaps it would have been more constitutional to have deprived the defenders of their burgh tickets.

PRESIDENT. The Magistrates have no such power. It would have been hard to have deprived seceders of their burgh-tickets; who, being good subjects, do nevertheless entertain scruples of conscience as to taking certain oaths.

[This does not apply to the defenders, who are not seceders, and have no scruple of conscience to plead; neither does it apply to any seceders, but the anti-burghers: and it remains to prove that such men can be members of a borough community, according to their principles, when contrasted with the regulations of boroughs and the law of the land. *Query, Are those men positively Whigs, or are they not rather negatively not Jacobites?*]

On the 12th January 1780, "The Lords assoilyied, in respect that the defenders had already been fined for councillors, and that the office of Dean of Guild implies that of councillor;" adhering, in substance, to Lord Gardenston's interlocutor.

*Act.* Ilay Campbell. *Alt.* J. Maitland.

1780. *January 14.* GEORGE MANDERSON *against* JAMES ERSKINE.

## BENEFICIUM CEDENDARUM ACTIONUM.

Is a co-debtor entitled to receive assignation of diligence from the creditor for speedily operating relief?

[*Fac. Coll. VIII. 189; Dict. 1386.*]

KAIMES. The creditor ought in equity to assign: it will not hurt him; and it may afford ready execution to the cautioner.