

- No 1.** they being convened, the just and necessary cause of the stent ought to be signified to them, and that the common-good is not able to defray the same, being otherways exhausted; and for that effect, that the Town's books be made patent, that thereby it may appear how the common-good is employed; and that the stent masters are to be elected by the Town Council, but their names to be intimated to the whole burgesses and neighbours, that they may be heard to propone any just exception against them, and that the stent roll be made known to all, that every one may know his proportion thereof.

Gilmour, No 92. p. 70.

No 2.
Stent for the
charges of
Commission-
ers in Parlia-
ment.

1665. *February 7.* LYON of Muiresk *against* HERITORS of the SHIRE.

LYON of Muiresk, having been Commissioner in the Parliament 1648, did, by virtue of the act of Parliament 1661, allowing Commissioners' charges, to those who served in Parliament 1648, who adhered to the engagement, charges the Heritors of the Shire to meet, and stent; and there being a stent made, conform to the valuation, he charges thereupon. Some of the Heritors suspend; and *allege*, That they were not charged to meet, and so the stent roll is null; *2do*, That it is not instructed, that the charger attended all the days in the Parliament; *3tio*, That the roll ought to be made according to the retour, and not to the valuation, conform to the custom before the troubles.

THE LORDS found, That seeing the Heritors who met, expressed in the stent roll, that all the Heritors were charged; that it was sufficient though the executions against each one of them were not now produced; and because the sederunts of the Parliament 1648 were not to be found, they found he had right to the whole charges during the Parliament, unless for such time, as they shall prove by his oath, that he was absent; but found, that the stent roll ought to be according to the retour, and not to the valuation.

Stair, v. I. p. 266.

No 3.
Who liable
for the tax of
maintenance?

1665. *July 27.* ADAM RAE *against* HERITORS of CLACKMANNAN.

UMQUHLE Colonel Rae, having advanced victual to the army, at Leith, *in anno* 1650, and gotten an assignation to the maintenance of August and September, from Sir John Smith, then General Commissary; in satisfaction thereof, pursues the Heritors of Clackmannan for their proportions; who *alleged*, That by their quartering of the King's army, their whole rents, *anno* 1650, were exhausted. It was *answered*, That it was notour, that the exhausting was after the battle of Dunbar, which was upon the 3d of September 1650, and so

could not extend to the maintenance of August and September, which was assigned before for so onerous a cause.

No 3.

THE LORDS repelled the defence, in respect of the reply.

1665. *July 28.*—IN the cause of Adam Rae, mentioned yesterday, some of the Heritors alleged absolutor, because they were singular successors, and by the act of Parliament, for the old maintenance, singular successors were excepted.

THE LORDS repelled this allegiance, and found that exception only to be extended to the maintenance contained in that act.

Stair, v. I. p. 303 & 304.

1666. *June 28.* DUKE OF HAMILTON *against* The DUKE of BUCCLEUGH.

No 4.

THE Duke of Hamilton, as collector of taxation, having charged the Duke of Buccleugh for the taxation of the Lordship of Dalkeith; he suspended upon this reason, That the King possessed these lands himself the years of the taxation, and so cannot demand them from the suspender, who is a singular successor. The charger *answered*, That he had the taxation from the King for a cause onerous, viz. a debt.

THE LORDS found the reason of suspension relevant.

Stair, v. I. p. 383.

1666. *December 15.* LORD COLVIL *against* FEUARS of CULROSS.

No 5.

THE Lord Colvil, as heritable Bailie of Culross, having charged the Lord Kincairn and others, for the taxation of their lands in Culross, conform to the stent roll; they suspended, and *alleged*, That the stent roll contained a fifth part more than the taxation. It was *answered*, and offered to be proved, That it was the custom of that and other benefices at their meeting of making the stent roll, to add a fifth part for expenses and charges of in-gathering the taxation. The defenders *answered*, That if any such custom were, it was against law, and against the liberty of the subject, who could be liable for no payment but by law, or of their own consent, or if any such custom were, it hath been by the consent of the vassals, or at least they have not questioned the same, nor is there any ground for such an addition; for the King's officers being obliged by their office to collect his Majesty's taxation, they can demand nothing of them who paid without process, and if they be put to process, the Lords will modify such expenses as they see cause. The charger *answered*, That such immemorial customs have the strength of law, and that it was done with the consent of all the vassals who convened; and that it was the sus-

In stenting for taxation, no additional sum could be charged for expenses.