

## PUBLIC BURDEN.

1663. November —. TOWN OF INVERNESS *against* FORBES.

THE Town of Inverness having stented John Forbes of Culloden in a certain sum, with the rest of the burgesses, for his burrow lands, within and without burgh, holden burgage; he being charged, suspends upon this reason, among others, That the stent was unjustly imposed; not only as to the proportion, the suspender being burdened far above the rate of his estate, but also in regard, the stent was imposed for defraying some particulars, and paying some debts unwarrantably contracted, and for which the inhabitants and burgesses cannot be liable, not having given any consent thereto. Likeas, the common-good of the burgh being the proper subject, out of which the burgh's burdens should be satisfied, the same is misspended by the Magistrates, who would always take this course to burden the inhabitants, for defraying of burdens contracted by their own misgovernment; and yet the suspender, of his own consent, was content to satisfy what is now imposed upon him, there being a rule and order determined for the future, how the inhabitants, especially the suspender, may not be oppressed with such stents. It was *answered*, That the stent was imposed by sworn men, appointed by the Town Council, who found the cause of the stent just. *Replied*, That the Magistrates can impose no stent upon the inhabitants without their own consent, and calling them for that effect, unless for such taxes as are appointed and put upon burghs by law.

THE LORDS found the suspender liable in payment of the stent now imposed, for which he is charged, and that not only as to his lands within burgh, but also as to those lands which hold feu of the Town in respect of his charter, whereby the lands therein specified are feued to him, his heirs and assignees, they being burgesses of the burgh; and, therefore, find the letters raised at the chargers' instance against him orderly proceeded; and find and declare, That, in time coming, before any stent or taxation be imposed by the Town Council, that there ought to be public intimation made thereof to the whole burgesses and inhabitants of the Town, by ringing of a bell, or tuck of a drum, and

No 1.  
Who liable  
for stent.  
The mode of  
imposing it.

**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