

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.