

1687. *February.*COLLEGE of JUSTICE *against* The TOWN of EDINBURGH.

No 8.

Declarator
of the privi-
leges of the
College of
Justice; of
which see an
abstract in
the Synopsais.

THE TOWN of Edinburgh having charged and poynded several of the members of the College of Justice, for an annuity of six of the hundred of their houses rents, possess by them within the town of Edinburgh, more than the rent they pay to the heritors of the houses; and likewise, they being troubled and molested in several other of their privileges, the College of Justice did raise a suspension of the annuity, and declarator, for declaring, not only that they should be free of their annuity, but for declaring all their other privileges and immunities, and particularly, that they may be free of watching and warding, and of all the town's impositions; and that they may employ unfreemen within the town to work to them any work they have to do; and that they might be exeemed from the jurisdiction of the Magistrates of Edinburgh, both civil and criminal, to work in their own houses. And the declarator was founded upon the common law, and particularly, Cod. Lib. 2. tit. 8. De Advocatis diversorum judicium; and the laws and customs of all other nations, by which the Judges, Advocates, and others that attend upon the courts of justice, are free of all taxations and impositions, and enjoy many other great privileges. And by the foundation of the College of Justice, by King James the V. and confirmed by the Pope's Bull in the year 1534, the members thereof are declared to be free and exeemed from all ordinary jurisdiction, contribution of teinds, charitable subsidies, ordinary or extraordinary, albeit imposed by the apostolic authority, or at the King's instance, or for any war against the Turk or infidels, or for whatsoever cause imposed, or to be imposed. And the Pope receives into his protection all the advocates, clerks, and scribes appointed for the said exercise, and all the remanent members for the said Senate and officials; which Bull is recorded by Serholme, General Auditor and Judge of the Apostolic Chamber at Rome, and recorded in the books of Sederunt of Session in the year 1537, and ratified by the 1st act, Parliament 7th, James V. and by an act of Sederunt in the year 1543. The privilege of the Lords of Session being free of all taxes, and impositions, and contributions, is extended to advocates clerks, and remanent members of the College of Justice; and by the only act of Queen Mary, 2d Parliament, holden in the year 1543, the institution of the College of Justice, in all the privileges, freedoms, and liberties, given and granted to the same, are ratified. And by the 174th act, 13th Ja. VI. the privileges granted to the Senators of the College of Justice, and members thereof, are ratified, notwithstanding of any act or statute, special or general, on the contrary. And the privileges are further ratified, act 211th, Parliament 14th; act 279th, Parliament 15th, James VI.; and the hail members of the College of Justice are exeemed from the taxations imposed for his Majesty; and that expressly, in regard of their privileges, whereunto the King and

Parliament declare they will in no ways derogate in any thing. And by the 155th act, Parliament 12th, and 279th act, Parliament 15th, James VI. the burghs are empowered to lay taxes, stents, and taxations upon the inhabitants, and to cause them watch and ward, and to contribute for the poor; and to burden all indwellers, with the rest of the inhabitants, for the advancement of the glory of God, His Majesty's service, and the weil of the burghs, without respect to any privilege, discharge, or exception, granted, or to be granted, to the King, or his successors, to whatsoever person, or for whatsoever cause; providing always, that the said act should not be prejudicial to the members of the College of Justice, and to their privileges and immunities, nor be extend to them. And the 111th act, Parliament 7th, James V. anent conduction of craftsmen, which bears, because it was heavily murmured that all craftsmen within the realm, and especially within burghs, use such extortion upon others, the King's lieges, by reason of their crafts and privy acts made among themselves, contrair to the common weil, and in great hurt and prejudice of the lieges; therefore it is statute, that it shall be leisome to all the King's lieges that has any biggings or reparations to be made for making policy, either to burgh or land, to chuse good craftsmen, freemen, or others, as he thinks expedient, for ordering, bigging, and mending all such works; and that no impediment be made to such craftsmen using their craft, as said is, by any other of the said crafts within the kingdom, under the pain of tinsel of their freedom, and breaking of the acts of Parliament; and that the Provost and Bailies of all burghs take inquisition thereupon, and put this act in execution in all points; and which is ratified and confirmed by the 4th act, Parliament 19th, King James VI. ordaining the foresaid act to have effect and to be put in execution, notwithstanding of whatsoever act or state made in the contrair thereof sinesyne. And by the 39th act of Parliament 6th Queen Mary, by the which the causes of the members of the College of Justice are ordained to be advocate from the Judge Ordinary; so that they are not subject either to the criminal or civil jurisdiction of the town. And act 23d, Parliament Charles I. and act 23d, Parliament, 1st session, Charles II. which bears, that the King and Parliament considering that nothing is more necessary and of more universal concernment, than the administration of justice, and in order thereto, that the Judges, Advocates, clerks, and others, members of the Supreme Judicatory, should be faithful, able, and qualified persons; and for their encouragement for serving the country in their respective stations and places, and to undergo the trouble, toil, and great expense of time, and otherways, for enabling them, for and during their service therein, it has been the wisdom and practice of all princes and nations, and in special of his Majesty's Royal Progenitors, to grant them diverse liberties and privileges, as is evident by many acts of Parliament, concerning the privileges and immunities of the College of Justice, and members thereof, granted, renewed, and ratified, from time to time; therefore the King and Estates of Par-

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liament ratify and approve all, and whatsoever privileges and immunities, granted by his Majesty's Royal Predecessors, to and in favours of the College of Justice, and of the Senators, Advocates, Writers to the Signet, and remanent members of the same, or whereof they have been in use and possession in any time bygone, together with all laws, acts of Parliament, statutes and constitutions, made and conceived in their favours; and declares the whole privileges, liberties and immunities foresaid, granted and belonging to the ordinary Lords and Senators of the College of Justice, shall be extended, belong, and appertain to, and enjoyed by the Advocates, Clerks, and Writers to the Signet, and remanent members of the College of Justice in all time coming, notwithstanding of whatsoever act, custom, or practice to the contrair.

As also, such of the College of Justice as are heritors within the town, being charged for payment of their proportion of the King's cess, they gave in a bill of suspension upon these reasons, That there was a greater cess imposed upon the town of Edinburgh, than was allowed by the act of Parliament, and consequently there was a greater proportion imposed upon the suspenders, than in law they were obliged to pay, in so far as the Town of Edinburgh's proportion of the eight months cess yearly, being L. 32,000, the Canongate and suburbs of Leith pays a third part thereof; and yet the whole L. 32,000 is imposed upon the Town alone, so that there being a third part more imposed on the Town, their proportion of the cess is consequently an third part more on the suspenders than is allowed by law; and, as there is a greater proportion imposed as to the *quota*, so there are many persons whose trade and land is exeemed from payment, who ought to be liable for their proportions, which makes an greater burden to be laid upon the suspenders, in so far as the present Magistrates and old Magistrates, the stent-masters both of Leith and Edinburgh, and lands belonging to the Town in property, which are all free of the cess and not stented, whereas they should bear an equal proportion of burden with the rest of the lands in the Town, and most of all the heritors of the burgh except those of the College of Justice, have great ease and abatement of their rents in the stent, some a fourth and some a third part, some more and some less; and yet, such of the College of Justice as are heritors within the burgh, are stented to the full, without any ease or abatement, so that the stent, as to them, is most unequal; as also, by an act of the Town Council in May 1674, which is ratified by act of Privy Council, it is declared, that any heritor within the burgh that shall build and repair their houses with stone and lime, that was formerly built with timber, shall be free of all stents, taxations, and public burdens, whereunto the heritors or tenants within burgh are liable, and that for the space of seventeen years after building and repairing of the same; and albeit, severall of the College of Justice that are heritors within the burgh, have built and repaired their houses with stone and lime, upon the faith of the said act; yet notwithstanding, they are stented to the full, without regard thereto.

Answered for the Town, That the College of Justice ought to be liable for the annuity, because the Town having given in an draught of an act to have been passed in the Parliament 1633, for laying on 12000 merks upon the inhabitants of the burgh, according to the proportion of the house-mails they pay, for maintaining six ministers, the Parliament remitted the consideration of the said act to the Privy Council, to do therein as they should think fit, and ordained the Council's determination to have the strength of an act of Parliament; and the Council, by an act in March 1634, did approve of the foresaid act, given in to the Parliament by the Town, appointing all the inhabitants to pay annuity, except the Lords of Privy Council and Session; and the advocates, clerks, and writers to the signet, did homologate the act and consented thereto, in so far as it appears by an act of sederunt in the session in July 1637, relative to said act of Privy Council, that they compeared before the Lords and offered them, and their successors to them in their places and office, to pay for the maintenance of six ministers, eleven pannies for every twenty shillings of mail which should be paid by them for their houses, and were content that an act of sederunt should be made thereupon, binding them and their successors for payment thereof, and that horning, poiding, and warding should follow thereupon without suspension; and, that none should thereafter be admitted or reputed members of the College of Justice, but such as should ratify and approve the said act and give obedience thereto; and, by the 10th act of the Parliament in the year 1649, an annuity of six merks is imposed upon every 100 merks of the hail mails of the houses of Edinburgh, for the maintenance of the ministers, without any exception of any person of whatsoever quality, degree, or place, upon any privilege or pretence whatsoever, so that the hail members of the College of Justice by that act are liable for the annuity; and the Town, in the year 1661, obtained a new act of Parliament for the said annuity to be paid by all the inhabitants without exception or privilege, and since that time, the members of the College of Justice have homologated the said acts, by their acquiescence, and making payment conform thereunto. And the said annuity being destinate for the provisions of the six ministers, there was compearance made for the ministers. For them it was *alleged*, That it is a principle in the common law, that *decimalis et trienalis possessio in ecclesiasticis habetur pro titulo*. And they and their predecessors have not only been in possession of the said annuities these thirteen years, but above forty years, and particularly the annuity has been uplifted from several members of the College of Justice; and albeit the ministers' possession for so long a time, is sufficient to give them a right, much more where they not only have possession, but instruct their right; and, seeing several members of the College of Justice have purchased good fortunes within the Town, it is just and reasonable that they should help and assist the Town in their burdens, and particularly in so good a work as the payment of the ministers' stipend. And albeit of old, the advocates and other members of the College of Justice, were free

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of public burdens and impositions within the Town, when they were but few, and their proportion would have been but inconsiderable; but now, when they are grown so numerous, and upon that consideration, are found liable to pay the King's cess, they ought likewise to bear a proportion of the burdens and impositions, that properly belong to the Town; and all the acts of Parliament and acts of sederunt by which the members of the College of Justice were declared free, are abrogate by the foresaid posterior laws; and the College of Justice, especially the advocates, writers, and other members, ought not to be exeemed from the jurisdiction of the Town, neither civil nor criminal; because they, by their charter of erection, have power of jurisdiction, as also being Justices of Peace within themselves, all persons dwelling within their liberties and privileges, ought to be liable to their jurisdiction, and there is no law exeeming the College of Justice from their jurisdiction; and albeit any member of the College of Justice may raise an advocation upon their privileges, yet that does not exeem them from the Town's jurisdiction, but their magistrates may proceed to judge in all causes concerning the members of the College of Justice, unless there be advocation raised and produced, and the act of Parliament of Queen Mary, allowing members of the College of Justice to raise advocation upon their privileges, can only be understood of civil causes, but not of the criminal jurisdiction, to cognosce of riots and other crimes, to which the Town, by the law, are judges competent, and are summarily in use to proceed for punishing of delinquents and securing the peace of the burgh; and the members of the College of Justice ought not to have the liberty to employ unfreemen to work in their houses, because that is contrary to the privileges of the several trades and their seals of cause, which are ratified by several acts of Parliament, by which no unfreeman is allowed to work within the burgh. And, as to the reasons of suspension relating to the cess, it was *answered*, That it was denied that there was a greater cess imposed upon the Town than was allowed by the law, as will appear by the stent-books, and if there be any more than the *quota*, it is only for clerk and collector's fees and other incident-charges, which are allowed by the act of Parliament. And if there was any more imposed, than the *quota* of the cess appointed by act of Parliament, it was for payment and defraying the charges of Captain Graham's company that guards the Town; and there is no more imposed upon the suspenders than their just proportions with other lands within the burgh, nor were there any person free from payment of the cess, but only the present Magistrates, who, by the sett, are exeemed from all public burdens during the time they are in office, and the stent-masters are not liable for the cess, because there are none in use to be appointed stent-masters that are heritors, and the trades-lands are not free, and as to the lands belonging to the Town in property, these being a part of the Town's common good, are not liable to pay cess more than any other part of the common good. And the act of the Town Council in favours of those heritors that should build and repair the fronts

of their houses with stone and lime, was only as to the freeing of them from the impositions that properly concern the burgh, but not of the King's cess, of which the Town neither did nor could free them. *Replied*, That the act of Privy Council in the year 1634, being only founded upon the reference of Parliament proceeding upon the Town of Edinburgh's petition, cannot prejudice the members of the College of Justice of their privileges, because the act of Privy Council could have no more effect than if there had been an act of Parliament. But this being but a private act, obtained *parte inaudita*, falls under the act *salvo jure*, and cannot prejudice private parties of their privileges, much less the rights and privileges of the College of Justice, which were granted to them by the foundation of the Judicatory, and confirmed by many laws and acts of Parliament; and, by the said act of Council, the Lords of Session are exeemed; and the act of Parliament in the year 1661, in favours of the College of Justice, all privileges and immunities granted to the Lords of Session by any former laws are extended to advocates, writers, and other members of the College of Justice, so that if they had been liable by the foresaid act of Privy Council, it is rescinded and taken away by the act of Parliament 1661; and the act of sederunt in the year 1637; which is alleged to have proceeded upon the consent of the College of Justice, cannot be obligatory, because it does not appear that there was any subscribed consent, and the extract of an act proceeding upon a pretended judicial consent, will not oblige the party, unless the consent which was the warrant of the act, had been subscribed by the party, or by the Judge, if he could not write, as was decided in the case of an judicial reference, 24th July 1661, Buchanan *contra* Osburne.* And albeit the consent had been signed, yet it could only oblige the subscribers, and no others; and, albeit the consent had been subscribed by all the College of Justice, yet that could only oblige themselves during their own lifetime, but cannot oblige their successors; and, as an evidence that the College of Justice did never consent to any such act, the Magistrates of Edinburgh, in the year 1643, having given in a petition to the Lords of Session, founded upon the said act of sederunt, for putting it in execution; there is a petition given by the advocates, writers, and others members, for rescinding of the said act, as having been passed without their knowledge or consent, and that it being but the assertion of their clerk, bearing them to be compearing and consenting to the payment of the annuities, it could not oblige them, unless their consent had been subscribed; which petition being given up to the Town to see, and in answer thereto, the Town gave in an act of the Town Council, restricting the endurance of the annuity for seven years, and that thereafter it should cease and expire in all time coming; and albeit, the foresaid act was obligatory, as it is not, it is taken away by the act of Parliament in favours of the College of Justice in the year 1661; and the act of Parliament in the year 1649, is of no effect, because all the acts of that Parliament are rescinded; and the act in favours of the town in the year 1661, making all persons liable

* Stair v. 1. p. 53. voce PROOF.

No 8. for the annuity without exception, being but a private and unprinted act, cannot prejudice a public act past in the same Parliament, in favours of the College of Justice; and the advocates and other members did never homologate any acts ordaining them to pay the annuity, nor did they acquiesce to the same, as appears by the petition given in to the Lords, by the advocates and other members in the year 1643, disclaiming their consent to the act of sederunt in the 1637, and craving that it might be rescinded; and, by several acts of the Town Council of Edinburgh, and particularly 5th April 1637, the 8th April 1642, the 20th October 1648, and the 10th August 1649, which bear, that notwithstanding of all the endeavours the town had taken to draw the College of Justice to have paid the annuities, yet the town could affect nothing, and any payment made by any of the members of the annuity, was upon distress by horning and poinding, and so can be no homologation; and, albeit, any of them had made voluntar payment, however these persons that has payed it, cannot repeal the same, yet that cannot prejudge the College of Justice of their privileges, nor hinder the rest of the members, nor the persons that has paid the annuity themselves, from pursuing a declarator, and to be free of the annuity: And the ministers were never in use to receive the annuity themselves; but those that were liable in payment thereof paid it into the town, and the town paid it to the ministers; and albeit, the annuity had been paid to the ministers, and that they had been above 13 years in possession thereof, in the which case, by common law, *ecclesiastici non tenentur docere de titulo*, in things relating to their benefice, yet that is only to be understood *in causa dubia*; and the possession gives only the ecclesiastic person a presumptive right; but that rule does not hold when the ecclesiastic person's title is condescended upon, and found to be null and invalid in law, as was decided, 11th July 1676, the Bishop of Dumblane against Kinloch.* And the number of advocates and writers, and other members of the College of Justice, are not so numerous as is pretended, seeing of all, beside the Lords of Session, who never paid annuity, they will not be above 200; and, the one half of these are but young men who have not families, so that the number of these who pay house-rent are but few, and their annuities will be but inconsiderable; and, the more numerous the College of Justice are, it is the better for the town; and seeing the town has so great benefit and advantage by the College of Justice, which is the principal thing that enriches the town, and made it so considerable as it now is, they ought not to contravert their privileges; and the advocates, writers, and others members of the College of Justice, being always obliged to attend upon the Lords, they ought not to be liable to the jurisdiction of the town, neither civil nor criminal; and it is clear, by the act of Parliament of Queen Mary, That the members of the College of Justice may advocate causes from all inferior judges; so that the very proponing this declinator defence, that they are members of the College of Justice, ought to liberate them from the town's jurisdiction, without putting the members of the

* Stair v. 2. p. 444: voce KIRK PATRIMONY.

College of Justice to the trouble of raising an advocation ; and the members of the College of Justice has always been in use to employ unfreemen to work in their houses, and what privileges they have been in the possession of at any time, are confirmed by the act of Parliament in their favours in the year 1661 : And they have not only liberty to employ unfreemen, as being a particular privilege competent to them, but as a thing competent to any of his Majesty's lieges dwelling within burgh, as is clear by the said act of Parliament anent the conduction of craftsmen ; and any privilege granted to any trade or incorporation within burgh by their seal of cause, cannot be sustained in prejudice of the public laws, which allow his Majesty's lieges to employ any tradesman they please to work to them within burgh. And as to the cess, the stent books are opponed, by which it appears, that there is a third part, which is 11,500 lib., imposed more upon the town and suburbs, than the quota appointed by the act of Parliament ; and albeit, the law allows somewhat more to be imposed for collector's and clerk's fees, yet it is but inconsiderable, and will not extend to a third part of the whole quota ; and the town cannot impose any thing by way of cess for payment of Captain Graham's company, but it ought to be paid out of the common good, or by those who are liable for watching and warding, who are free from that trouble, by that company that is entertained for guarding of the town. But neither the members of the College of Justice, nor any other person that is not obliged for watching and warding can be liable for any thing that is imposed for the paying and defraying of the charges of that company ; and the present Magistrates ought not to be exeemed by virtue of the sett, because the sett is only as to the stent and contributions that particularly concern Edinburgh, and not as to the King's cess ; and there was no cess then upon the country when the sett was made, so that the sett and contributions mentioned in the sett, cannot be extended to comprehend the King's cess ; and albeit it should, yet the Magistrates ought not to be exeemed, because it is expressly provided, by the act of Parliament imposing the cess, that none should be exeemed but colleges and hospitals, *et exceptio firmat regulam in non exceptis*. And as the members of the College of Justice, albeit they be declared free of all public burdens by former acts of Parliament, yet they are now made liable by the foresaid act imposing the cess, so, by the same reason, the present Magistrate ought not to be free : And, as magistrates in the country, such as sheriffs, baillies of regalities, stewardries, and others in public office, are not exeemed from the cess, neither ought magistrates of burrows to be free ; and albeit, they are at some pains in managing the affairs of the burgh during the time they are in office, yet they have always their own advantages, which will be more than compensate their care and pains in the burgh affairs : and if the present magistrates of burghs were to be free, yet their proportion ought not to be laid upon other heritors and landlords within the town, but should be paid out of the common good ; for their being *jus quæsitum* to every heritor by the law, that he cannot be farther liable but for his just proportion, his neighbour's

No 8. proportion cannot be laid upon him ; and if the proportion of cess due by the Lords of Session is not laid upon the rest of the shire where they are heritors, but is allowed, upon the King's account, in the fore end of the quota payable by the shire ; so, by that same reason, and much more, ought the proportion of the cess, due by the present magistrates, (if they should be exeemed) be paid out of the common good, and not to be laid upon the rest of the heritors and landlords of the burgh ; especially seeing those that are magistrates have ordinarily great rents and trading in the town, who will be liable for a great part of the cess ; and there is no reason that their proportion should be laid upon their neighbours : And, as to the stent masters, albeit, ordinarily they are not heritors, yet they are merchants and tradesmen, and so ought to be stented according to their trade, which always diminishes the proportion of the cess laid upon their neighbours ; and the trades lands are not stented, as appears by the stent books, and the lands belonging in property to the town, ought to be stented, as well as the lands belonging to private persons ; because, as to their property, they are in the case of private persons, and as their lands in the country, albeit, they be a part of the common good, do bear a part of the cess, where they ly, with other heritors ; so, by that same reason, the lands and others belonging to them within burgh, ought to bear a proportion of the cess with the burgh : And, also, it appears by the stent books, that there are a number of other persons free of the cess, which bears some to be exeemed for reasons, but without condescending upon the reasons, and others are exeemed without any reasons at all ; and, the stent is unequally laid on, there being more imposed upon some and less upon others ; albeit, they have double their rent, as appears by a particular account and condescendence given in, taken out of the stent books ; and seeing the act of the Town Council, made for the encouraging of building, bears expressly, that those that shall build conform to the act, shall be free and exeemed from all stents, taxations, and other public burdens, whereunto the heritors of tenements within burgh are, or shall be, liable, must be understood not only of public burdens that concern the burgh, but likeways of the King's cess ; and therefore, the stent ought to be rectified, both as to the quota imposed, and inequality of the same, that every person may bear a just proportion : And, for that effect, that the Lords may ordain a new stent to be made, and appoint new stent masters, whereof the one half to be chosen by the magistrates, and the other half by the College of Justice, for making up an exact stent, as was decided the day of December 1681, in the case of the Magistrates of Banff *contra* Russell * ; where Russell being stented by the Magistrates in a certain sum, as his proportion of the cess, and he having suspended upon the reason, that he was unjustly and exorbitantly stented, the Lords granted commission to four men within the burgh, two to be chosen by the Magistrates, and two by the suspender, to revise the stent and make report to the Lords ; and was likeways decided in the case of Forbes *contra* Town of Inverness, No 37. p. 1895. THE LORDS having considered the summons of declarator raised at the

* *See* PUBLIC BURDEN.

instance of the members of the College of Justice, of their privileges against the Town of Edinburgh, the suspension raised by them of the charges given at the instance of the Town for payment of the annuity; and, the bill of suspension given in, of the charges for their proportions of his Majesty's supply, the answers made thereto for the Town, and whole disputes propounded for either party, with the acts of Parliament, and other acts and writs founded on, *hinc inde*, in the debate, they sustain the foresaid declarator, as to the members of the College of Justice their immunity and exemption from payment of the annuity for the ministers' stipend; and decern; and declare them free thereof, both as to bygones and in time coming, and suspend the letters simpliciter for the same; and, likeways, sustain the declarator, as to their immunity from watching or warding, and any impositions for the same; and, from payment of any customs, causey mails, shore dues, and other impositions laid on their provisions, of meat and drink, for their families, and their other goods carried to or from the Town, and collected at the ports or other places within the liberties of the Town: And, declare, that the producing a certificate, subscribed by a member of the College of Justice, bearing, that the provisions, or goods, do properly belong to him, shall be sufficient for freeing them from paying the said customs and impositions, the certificate being renewed once in the half year at least; and sustain the declarator, as to the pursuers' exemption from the civil jurisdiction of the Magistrates of Edinburgh; and declare, that upon their proponing declinator thereof, the Magistrates ought to desist from any procedure against them, without necessity of advocacy; and, before answer, as to the criminal jurisdiction, and to that point of the declarator, concerning the pursuers' employing unfreemen within the Town, the LORDS declare, they will take trial what has been the former custom, as to both these points; and, particularly what was done in the case mentioned in the debate: And, the LORDS ordain, that where a taxation, or cess, is imposed by the acts of Parliament, or convention of estates, to which the members of the College of Justice are, or shall be, liable, that there be a special and distinct stent made upon the Town and suburbs, for the quota imposed; and, so much more only as may defray the incident charges of collecting the same, wherein no exemption of the same shall be given to Magistrates, stent masters, or other persons; but that they be stented for their proportions of these impositions, as well as other inhabitants: And, likeways, that the tenements belonging to trades be stented, and the Town's common good, where the same consits in land or feu duties, and does not bear burden with the shire, but prejudice to the Town of Edinburgh, if they think fit to lay on the proportions of those who have been in use to be exempted upon their neighbours, but not upon any members of the College of Justice, and to the end these impositions, warranted by public authority, may be equally laid on; and those who are heritors, being of the College of Justice, not burdened beyond their just proportions; THE LORDS declare, they will, from time to time, nominate an advocate and a writer to the signet for each

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quarter of the Town, to meet with the stent masters, who shall be appointed by the Magistrates at their taking of the survey, and valuation of the whole tenements within the burgh and suburbs, and of the trade of the burgers which is in use to be stented, and to bear a part of the burden of the cess, and to be present at all their meetings for imposing of the stent, and to see that the valuation be justly and equally made, and the stent laid on accordingly. And, for that effect, appoint the Magistrates to make intimation of the time of the master's meeting, to the Lord President of the Session, the Dean of Faculty, and Keeper of the signet, ten days of before in time of Session, and twenty days in time of vacance; and appoint this method of stenting to begin and take effect for that term of his Majesty's supply, due and payable at Martinmas next 1687 years; but prejudice to the Town of Edinburgh, to use execution for that term's supply, which was payable at Martinmas last 1686 years, and the Whitsunday term now ensuing, according to the stent already imposed for these two terms: And the LORDS do declare, the persons following to be members of the College of Justice, who are to enjoy the privileges above mentioned; viz. the Lords of Session; Advocates; Clerks of Session; the Clerks of the Bills; the Writers to the Signet; the Deputes of the Clerks of Session, who serve in the outer-house, and three substitutes for registrations, being one in each clerk's office; the three Deputes of the clerks of the bills; the Clerks of Exchequer; the Directors of the Chancellory; their depute, and two clerks thereof; the Writer to the privy seal, and his depute; the Clerks of the General Register of seasings and hornings; the macers of the session; the keeper of the minute book; the keeper of the rolls of inner and outer houses. And the LORDS do extend the privileges foresaid to the persons following, viz. one actual servant of each Lord of the Session; one servant of each advocate; four extractors in each of the three clerks' offices of the session; two servants employed by the clerk of register in keeping the public registers; the keeper of the Session house; and the keeper of the advocates' library. It is always hereby declared, that if any of these servants, and others, to whom the foresaid privileges are extended, shall keep merchants' shops, taverns, or ale houses, or exercise any other trade within the burgh, they shall not enjoy any of the privileges above mentioned. And ordain this act to be printed and recorded in the books of sederunt.

Fol. Dic. v. 1. p. 150. Sir Patriak Home, v. 2. No 898.

1687. July 16.

JOHN FAIRHOLM and his CURATORS *against* MR JAMES DAES Advocate.

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An advocate
had received
papers, not
qua advocate,
but *tanquam*

JOHN FAIRHOLM and his Curators gave in a petition against Mr James Daes Advocate, craving he may exhibit some papers necessary in a progress, whereunto he had right on Sir Alexander Home's estate.—*Answered, imo, You show*