

the *exactio vectigalium*, or lifting of customs, is *inter majora regalia*, and not transmitted by a general jurisdiction, as *Sextinus de Regalibus* shows. And the erecting a sheriffship does not hinder her Majesty from granting fairs within that same bounds; as Sir George Mackenzie gives sundry examples of, in his *Criminals*,—*tit. Regalities*. To the *second*, My father's entering in tack with you, can never militate against me, who never owned your right. Likeas, The Queen's supervenient gift of this fair takes off any preceding homologation.

The Lords found my Lord Eglinton's title, as sheriff, was no sufficient title to prescribe a right of exacting customs within another gentleman's property: and though in this cause it was *lis de paupere Regno*, yet it might be of consequence in other parts of the kingdom.

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1709. *December 8.* JAMES PATERSON OF WOODSIDE *against* WILLIAM HANNAY.

A COMPLAINT having been given in by Mr James Paterson of Woodside, against William Hannay, agent in Edinburgh, that he had impetrated a bond of 3000 merks from him, under a back-bond, declaring, it was but a trust to lead an adjudication upon it, against him; yet he had assigned this bond to James Hutcheson, writer to the signet, who had charged him with horning, and inhibited him thereon, contrary to common honesty and his trust: And this being remitted by the Lords to their committee for trying abuses, they, after hearing of all parties, found the diligence unwarrantable, and reponed Paterson against it, imprisoned Hannay, and declared him incapable of managing or agenting any process about the Session; but found Mr Hutcheson innocent and free. And, that this sentence might terrify others, they ordained it to be publicly intimated in the Outer-House, and affixed on the walls and doors of the Parliament House, that all may take special notice of such dishonest practices in time coming, to the scandal and reproach of justice, when they escaped unpunished after discovery.

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1709. *December 13.* SIR ALEXANDER FALCONER OF GLENFARQUHAR, Petitioner.

GLENFARQUHAR and Halkerton. The Lord Halkerton having been furious these eighteen or nineteen years bygone, and having, in his madness, killed a man; and Sir Alexander Falconer of Glenfarquhar, his nearest agnate and next heir, thinking his affairs not well managed, raised a brief out of the Chancery for cognoscing his furiosity, at his own house of Halkerton, by the sheriff and an inquest: My Lady, his mother, disappointed the first briefs, by taking him out of the Sheriff of Kincairden's jurisdiction into the Town of Montrose: Of which Glenfarquhar having complained, there is a new brief raised and executed, of which an advocation is presented, desiring it may be brought before the macers, and he brought over to Edinburgh; and that assessors might be adjoined, who would best judge if he was reconvalesced or not.

The grounds for the advocation were, *1mo*, That the degrees of idiocy and

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