

1663. *January 21.* WILLIAM YEAMAN *against* MR PATRICK OLIPHANT.

THERE being a process, pursued at the instance of William Yeaman, advocate, against Mr Patrick Oliphant, advocate, for the maills and duties of the lands of Newtoun ;—it was alleged, That the defender should be assoilyied, because he bruiked the lands by gift and infestment of forefaulture under the Great Seal, through being of Sir James Oliphant declared fugitive in a criminal court, or denounced rebel, not only for matricide, having killed his mother, but for murder under trust, having killed her under trust. It was answered, That, by the Act of Parliament against parricide, the parricide's heritable estate is declared to pertain to the collateral and next heir, excluding only himself and his heirs *in linea recta*. 2. Though murder under trust was libelled, yet it was not proven, nor was the parricide cited to compear before the justices under any higher pain than the pain of horning, and not under the pain of treason : and only his moveables, by the act of adjournal, were ordained to be escheat ; and therefore his heritable estate could not fall, nor belong to the king, by any such determination or act of the justice-court ; and the infestment under the Great Seal is obtained *periculo impetrantis*. The Lords repelled the allegiance in respect of the answer.—*In præsentia*.

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1663. *January 28.* The BAILIE of the REGALITY of GLASGOW *against* JOHN BOGLE.

IN a suspension, raised at the instance of John Bogle and William Mader, against the bailie of the regality of Glasgow, of a decret, whereby the said bailie had fined them in £100, for a riot, committed in the kirk on Sunday ;—it was found, That the fine was not exorbitant, in regard of the fault ; and that the bailie of the regality might lawfully fine for that sum, as well as any other judicatory whatsoever.

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1663. *February.* ALEXANDER FRAZER of PHILORTH *against* LORD FRAZER.

THE deceased Sir Alexander Frazer of Philorth dispones to Alexander Frazer of Durris, in liferent, and Robert his son, in fee, the lands of Cairnbulge and others, with this express provision, that, during the life of Philorth and old Durris together, it should not be lawful to young Durris to dispoise the lands to any person whatsoever, under the pain of £10,000 *pro damno et interesse ex pacto convento* ; and if, after their death, he should be content to sell the lands, he should make the first offer thereof to Sir Alexander's heir-male, or any other person he should design, bearing the name and arms of Frazer, for £38,000 ; and, in case of their refusal, to some other person substituted *successivè*, of whom Andrew Frazer of Staniewood was one. This disposition, by way of con-