

ticks, subscription by initial letters was sustained. This was done, *me reclamante*, upon these reasons:—That the practicks, sustaining subscriptions by initial letters, were where the same were done before witnesses, and the subscriber did not offer to improve; and that it was against our law, that the writ, neither being holograph, nor the mark put before witnesses, that a custom to subscribe some other being proven, which were acknowledged and satisfied by payment, should be sufficient, without any adminicle, to sustain any other bill or writ to be obligatory.

*Page 35.*

---

1669. *February 3.* BEATIE *against* ROXBURGH.

BEATIE being assigned to the provision contained in the contract of marriage betwixt Roxburgh and Anna Sandilands; whereby Roxburgh was obliged to infest her in an annualrent, effeiring to 3000 merks; as likewise to a liferent of the whole conquest during the marriage. And accordingly, having conquest some lands, and provided her to the liferent thereof, Beattie, as assignee foresaid, did pursue for the annualrent of the 3000 merks.

It being ALLEGED, That she being infest already in as much rent as the annualrent of 3000 merks, it ought to be ascribed to the implement of that obligation; and so could only pursue upon the provision of conquest:

Notwithstanding whereof, the Lords found, That her infestment being in the conquest lands, did not hinder her to pursue for her liferent of the 3000 merks; they being distinct obligations and consistent.

*Page 36.*

---

1669. *February 6.* CARGILL *against* LIDDELL.

CARGILL, being minister of a kirk at Glasgow, *in anno* 1662, and having served that year, did pursue the town of Glasgow for the last half-year's stipend; wherein compearance was made for Mr David Liddell, who succeeded to that kirk, and ALLEGED, That the pursuer, neither having received a new presentation from the bishop, nor having kept the anniversary thanksgiving, was deposed; and by an act of council, October 1662, it was declared, That all ministers, who should not keep the anniversary day, should have no right to that year's stipend, or any part thereof.

To which it being REPLIED, That, for the first part of the allegiance, in not taking a presentation; by an explanatory Act of Parliament, it was declared, That it should not be extended to the year 1662. And as to the second part, anent the keeping of the anniversary day, it being REPLIED, That the Act of Parliament, enjoining the same, was not penal; and that the Act of Council, declaring them to lose that year's stipend, could [not] be extended *ad præterita*:

The Lords did sustain the said reply to both these members, and found Cargill had right to the whole stipend 1662. This was done, *me reclamante*, upon this reason:—That the Act of Parliament having declared, That all ministers

should keep the anniversary day ; and the Act of Council appointing this special punishment, *viz.* That all ministers should lose that year's stipend that they failed in keeping thereof, the Lords of Session could not, contrary to the said Act of Council, liberate them from that penalty.

*Page 38.*

---

1669. *February 9.* HATTON *against* His SUB-VASSALS.

IN an improbation, pursued at Hatton's instance against his sub-vassals, the Lords found no certification for not-production of the immediate vassal's rights ; seeing they or their heirs were not called : And found, likewise, that the vassal having produced sufficient writs to defend them in a reduction, certification could not be granted.

*Page 39.*

---

1669. *February 13.* GEORGE DOUGLASS *against* WILLIAM JOHNSTOUN.

GEORGE Douglass, being assigned by his sister, relict of the Laird of Wamphray, to her terce of the lands of Wamphray, did pursue William Johnstoun of Wamphray, who married her daughter, who was heretrix of the said lands, for the mails and duties of her terce, to which she was kend ; not only for by-gones since her husband's decease, but in time coming during her lifetime.

It being ALLEGED, that the defender was not only *bonæ fidei* possessor as to all by-gones before the citation, but ought to be assoilyied in time coming ; because the said lady, after that the right of terce was due to her, did consent to the defender's contract of marriage, whereby she and her daughter did dispone to the defender and his heirs the heritable and irredeemable right of the said lands ; with the reservation only of her liferent, wherein she stood infest.

The Lords did sustain the allegiance, to free the defender both for by-gones and in time coming ; notwithstanding it was alleged, That, at the time of her consent to the contract of marriage, she was not kend to a terce ; and that the defender having married her daughter, who was heir to her father, by whose decease the said lady had, by law, a right to terce, they could not quarrel the same, unless she had expressly disponed or consented for all right of terce that she could crave.

*Page 42.*

---

1669. *February 23.* BISHOP of EDINBURGH *against* HERITORS of BRAID.

THE Bishop, pursuing for four chalders of victual, as the valued tack-duty of the lands of Braid, conform to a decret of plat, *in anno* 1631, at the instance of the Abbot of Holyroodhouse, whereby the stock and teind being jointly valued to be worth twenty chalders victual ; and so, by the Act of Parliament,