

payment of Philiphaugh's creditors ; and that his goodsire, and the Lord Dury, and other friends, who were most intelligent men, had subscribed the account ; they found, after so long time, the Earl of Southesk, or the Earl of Traquair, his author, were not obliged to produce these instructions, but that it was sufficient that Philiphaugh, in his majority, had ratified the factor's discharge of his intromissions with that sum ; but reserved action against the factor himself, and his heirs, as accords.

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1670. *January 18.* GEORGE TURCAN *against* SERSE TURCAN.

IN a declarator of the expiring of the reversion of certain lands, given in wadset to the said George, upon bond, for payment of the sum of 700 merks to Margaret Primrose and her husband, the longest liver of them two, and their heirs ; in which wadset the reversion was suspended for twenty-one years ; which were expired :—It was ALLEGED, That the payment of the bond was not instructed by the discharge, being granted by Margaret Primrose only ; because she was only liferenter of the said sum, and her son fiar, who behoved to subscribe the discharge ; otherwise Serse Turcan, granter of the wadset, was not *in tuto*.

The Lords, having considered the bond made to the said Margaret, which did bear, that it was payable to her and her husband, and, failing of them by decease, to their said son and heir ; and that the said Margaret had, in the discharge, acknowledged that she had received the sum of money, to be employed for her liferent use only, and to the behoof of her heir after her decease, notwithstanding of the conception of the bond, which made her fiar, did find, That it ought to be instructed, that the money was so employed for the behoof of the heir, and therefore that he ought to be cited to this declarator.

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1670. *January 26.* MACQUEAN, Minister in Edinburgh, *against* MR PETER PEARSON.

MR John Macquean, sometime minister at Carmichaell, having charged the heritors for payment of his half-year's stipend, from Martinmas 1668 to Whitsunday 1669, compearance was made for Mr Pearson, who was minister, and succeeded to Macquean ; who ALLEGED that he ought to be preferred, because he was presented by the Marquis of Douglas, who was patron, to the whole year 1669, before that the lands were sown that year, on the separation of the crop ; and that Macquean, being called to be minister at Edinburgh, had received stipend for that half year.

The Lords, notwithstanding, did prefer Macquean ; seeing it was confessed, that he had served the cure at the kirk of Carmichaell, till March, in the year 1669, and that Pearson was not admitted till after Lammas ; so that, in