

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.

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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.

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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.

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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,