

No. 3. 1561. *January 11.* LAIRD of BLAIR *against* ANDREW HAMILTON.

Gif ony man bindis and obliges himself, in an contract betwix his son and ony woman, to put his son in fee of his landis, and the samen not being done be him, in his default, it happens the son to deceis, the marriage beand completit, his wife aucht and sould, be ressoun of the said contract and obligation, bruik and joise ane tierce of the saidis landis, like as scho may do, gif her husband had deceist last vest and seasit in fee thairof.

*Balfour, (DOWRIE AND TERCE) p. 107.*

No. 4. 1583. GRAHAM *against* ANNANDALE.

In an action of removing pursued by Robert Graham against certain tenants in Annandale; alleged by the defenders, They ought not to remove, because they were tenants to Nicolas Douglas, Lady Johnston, by payment of their mails and duties to her, as lady tercer of these lands, many years bygone. Replied, Not relevant, except they would say she was served and kenned to a terce out of these lands. In respect of which reply, the exception was repelled. After, it was alleged for the Lady, That she ought not to remove from such and such lands, because they appertained to her in conjunct-fee disponed to her by her umquhile husband, and that she, by virtue of the same, had been 20 years in possession. Answered, Not relevant, except she would qualify of whom her husband had the right of the said lands, and that her husband's author had sufficient right to dis-pone the same. Which reply was repelled, and found, that it was sufficient for the Lady to allege her husband's donation and disposition made to her, *et ad ulteriora non tenebatur*

*Spottiswood, p. 336.*

No. 5. 1612. JAMES CRICHTON *against* RELICT of JOHN COMISTON.

In an action of removing pursued by James Crichton, who had comprised the lands of Adra from John Comiston, it was alleged by his relict, That she was served to a terce before the pursuer's sasine; and yet, albeit her husband died before sasine was taken, the Lords found, That the comprising so denuded him, that she could not be served to a terce after his decease.

*Kerse MS. p. 90.*

No. 6. 1612. *June 20.* A. *against* B.

There is no non-entries of lands holden burgage; neither will the relict obtain a terce thereof.

*Haddington MS. No. 2461.*