

1628. *March 15.* LADY DUMFERMLINE *against Her Son.*

No. 17.

A Lady tercer falls her terce of heritable teinds wherein her husband died last vest and seised; but if the husband has only right to the teinds by tack, she falls terce of the teinds allenarly; and if she pursue the tenants for the terce of the lands let to them for a certain duty, both for stock and teind, the avail of the teind must be deducted off the said lands, and she must have her terce of the third part of the rest.

*Auchinleck MS. p. 237.*

1628. *March 16.* LADY DUMFERMLINE *against Her Son.*

No. 18.

Where the heritor intromits but with the two parts of the duty, the lady tercer cannot convene the heritor for her terce, except the heritor having intromitted with the tenants' hail duties, at least with as meikle as the tenants were able to pay; in the which case, if the tenants be not responsal, the heritor and the lady tercer should part that which was gotten betwixt them *pro rata*.

*Auchinleck MS. p. 237.*

1629. *January 19.* A. *against B.*

No. 19.

A lady pursuing for removing from her terce of a month ground, it was alleged, that the defenders could not remove, because the land was undivided, and it is impossible to remove from the terce of a month, whereof there was no tilled land, except it were divided either by soume or lands. The Lords repelled the exception.

*Auchinleck MS. p. 236.*

1629. *July 19.* A. *against B.*

No. 20.

A relict pursues her bairns, executors confirmed, and their tutors, for her third of the goods omitted out of the confirmed testament, partly intromitted with by the tutors, and partly omitted by them, in giving up, wherewith they might intromit, seeing the Commissary was not in use to give a dative to a relict *ad omissa* for her third part where a testament was confirmed. The Lords ordained her to take a dative *ad omissa*, and to call the tutors to hear and see the same given; and ordained the tutors to be answerable to her for her third part of all that they had intromitted with and omitted.

*Auchinleck MS. p. 237.*