

life-rent of the whole lands over and above the special provision. The Lords found the claimant entitled to a terce No. 44.

Fac. Coll.

* * * This case is No. 91. p. 6457. *voce* IMPLIED DISCHARGE.

1792. *May* 18. STEWART *against* HOOME.

No. 45.

The terce found to be excluded by the husband's debts declared to be burdens on the heir, and appointed to be ingrossed in the infestments.

Fac. Coll.

* * * This case is No. 11. p. 4649. *voce* FOREIGNER.

1795. *November* 24. MRS. JEAN GIBSON *against* CHRISTIAN KERR REID.

By the entail of the estate of Hoselaw, it is declared, that it shall not be lawful for the heirs of entail "to sell, annailzie, or dispone, dilapidate, or put away the said lands and estate, or any part thereof, to whatever person or persons for whatever causes, onerous or gratuitous, nor to grant tacks thereof, or any part of the samen, for any longer space than the lifetime of the granter; nor shall it be lawful for them to contract or take on debts thereupon, nor to grant wadsets thereof, or annual-rents, or annuities forth of the samen, nor to do any other act and deed whatsoever, directly or indirectly, whereby the samen, or any part thereof, may be adjudged, appraised, or otherwise affected, burdened or evicted, except allenary, in so far as is hereby specially after reserved, viz. reserving power and liberty to each of the said heirs of tailzie, in the order of succession aforesaid, to provide a liferent jointure in favour of their wives out of said estate, by way of locality only, not exceeding the sum of 400 merks Scots money of yearly rent, subject to a proportional part of the Parliament taxes, Ministers, and Schoolmasters' fees, stipends, and other incumbent duties; which liferent locality so to be provided to wives, is hereby declared to be in full satisfaction to them of all they can ask or claim of the law in name of terce: Declaring also, that albeit it shall happen any of the heirs of tailzie above specified to fail in providing their wives conform to the above written reservations to that effect, yet the said wives shall have no manner of right to the terce, or any other legal provision upon or out of the said lands and estate, notwithstanding any law or practice to the contrary."

No. 46.
The terce may be excluded by an express clause in an entail, even altho' it should not contain irritant or resolute clauses.

The entail contains a general resolute, but no irritant clause.

Robert Kerr succeeded as heir of entail of Hoselaw, and afterwards married Jean Gibson.

They had executed no contract of marriage, and he died suddenly, without making any provision for her.