



T E R C E.

1532. *February 21.* ELIZABETH CREICHTON *against* WILLIAM HAMILTON:

Gif ony woman raise an breif to be servit to ony ressonable tierce of her husband's lands, scho ought and should be kennit and servit to ane tierce of all and hail thay landis in the quhilk her husband deceasit last vest and seasit, and of none utheris, albeit the samen pertaines to her husband, and were disponit be him to ony person in his life-time. And scho being servit to the said tierce, the mailis, profits, and duties of all yieris and terms preceeding her services, sen the deceis of her husband, als weil as after the samen service, enduring her life-time, aucht and should pertain to her, notwithstanding that scho be servit thairto lang after his deceis, because, in this case, *tempus deservitionis retrahitur ad tempus mortis mariti.*

No. 1.

Balfour, (DOWRIE AND TERCE) p. 109.

1541. *March.* LAIRD GLENBERVIE *against* LAIRD LUSS:

The Laird of Glenbervie pursued for a reduction of a rollment of Court, whereinto they had served the Lady Luss, spouse to the Laird of Rotland, to a terce of certain lands, the which Laird of Luss, her husband, had annailzied to the Laird of Glenbervie upon a reversion of 13,000 merks. The reasons of the summons were, that the Lady ought not to have been decerned to have a terce, because her husband died not last vest and seased thereintil *ut de feodo*, because he had only the superiority of the samen, and had used another man to the fee of the land; and of the practick of the law of Scotland, no lady ought to have a terce but of that whilk her husband died last vest and seased *ut de feodo*. The Lords found the said allegiance relevant, and so reduced the said rollment of Court.

No. 2.

The relic has no claim for the terce of any superiority belonging to the husband.

Fol. Dic. v. 2. p. 450. Sinclair MS. p. 162.