*** Dirleton reports this case:

No 28.

A removing being pursued from some lands of the estate of Cullernie, the Lady Cullernie compeared, and alleged, that the tenant could not be removed without her consent, seeing she had right to a terce by the law, and was not excluded by her contract of marriage, though she was provided thereby to a jointure, but not in satisfaction of her terce, or what else she could pretend. Whereunto it was answered, That she was not served nor kenned to a terce, and until then, she had no interest to compear to stop the removing.

The Lords repelled the defence, and found she had no interest; reserving her right of terce, when she should be served and kenned, as accords.

Reporter, *Craigie*.

Dirleton, No. 234. *p.* 112.

1681. *November* 23. LADY CRAIGLEITH *against* LADY PRESTONGRANGE.

No. 29.

The Lady Craigleith having pursued her daughter and her husband Prestongrange, for a third and terce besides her jointure, in respect she had not renounced them;

Alleged for the defenders: As a wife's provision, exceeding her legal third, is not to be reduced thereto, she ought not to have any more.

Answered: A conventional takes not off the legal provision, unless renounced; which is also Craig's opinion.

The Lords delayed to give interlocutor, till they saw if the Parliament in June would make any statute anent terces, and at length decerned in favours of the Lady, and allowed her a terce out of what was not life-rented.

Harcarse, No. 666. *p.* 190.

1697. *February* 9. CREDITORS of BALQUHOLLY *against* The LADY.

No. 30.

A Lady's jointure being reduced by a creditor, who had inhibited before her contract of marriage, and she thereafter claiming a terce, as if she had not been provided at all; this the Lords refused, because that having once founded on her contract, and renounced all terce, &c. she could not afterwards recur thereto.

Fol. Dic. v. 2. *p.* 451.

*** This case is No. 44. p. 6395. *voce* IMPLIED CONDITION.