

daughters succeeding to an estate in consequence of a disposition : And our greatest lawyers have given their opinion, that, in this very case of a terce, a widow has right to the third of the mansion-house, gardens, and office-houses, &c. ; Craig, Lib. 2. Dieg. 22. § 28. ; Stair, B. 2. Tit. 6. § 15. ; and their opinion is also confirmed by sundry decisions, particularly in a case observed by Stair, January 26, 1665, Logan against Galbraith, No. 24. p. 15842.

“ The Lords find, That Mrs. Borland’s debt cannot affect the terce ; and find, that the widow is entitled to her terce of the mansion-house and garden.”

Act. *Cha. Hay.* Alt. *M’Queen.* Reporter, *Stonefield.* Clerk, *Ross.*

Fac. Coll. No. 77. p. 186.

No. 38.

1778. *March 6.* THOMSON *against* M’CULLOCH.

M’Culloch having left a free estate of £.240 a year, after deducting the interest of all his debts, but being infest only in such parts, as yielded a terce of £.40 to his widow, the Lords found her entitled to a yearly aliment, for 19 years, from the heir.

Fac. Coll.

No. 39.

* * This case is No. 70. p. 434. *voce* ALIMENT.

1779. *June 30.*

FRANCES BELSCHIER *against* ANDREW MOFFAT and Others.

In the year 1750, William Belschier having purchased the lands of Grange, including a valuable coal, disposed them to his wife Frances in life-rent, and himself in fee, and the heirs-male of the marriage ; but reserved power to sell the estate, or to burden it with debt, and to alter the destination at his own pleasure, without his wife’s consent.—Infestment was taken in name both of husband and wife on this disposition.

Belschier contracted considerable debts to George Thomson ; and, for his security, disposed to him in 1769 the lands and coal of Grange, redeemable on payment of the debts. Upon this disposition, Thomson was infest, and entered into possession. Afterwards a lease of the whole estate and coal, was granted by Belschier and Thomson jointly to Messrs. Caddels, by which the rent was made payable to Thomson, until redemption of the lands.

Belschier died during the currency of this lease. His widow having expedite a service on a brief of terce, brought a process against Caddels, the tenants of the lands, for a third part of the rents since her husband’s death, and in time coming. Thomson appeared in this process, and objected to her getting any terce

No. 40.
No terce due
from collieries.