

1542. *June 22.* MARGARET JARDANE *against* LORD SOMERVILLE.

No 23.  
Found as  
above.

MARGARET JARDANE, relict of umquhil John Gladstones of that ilk, askit the Lord Somerville to be compellit to pay to her the maills of her terce lands, raisit be him sin the decease of umquhil Sir James Hamilton, superior of the lands of Liberton, who was for treason forfaltit. The said Lord *alleged*, That he had gotten, be the King's gift of the said lands of Liberton, property and tenandrie, sua that the said terce fell in forfaulture as weill as the lave of the lands. THE LORDS, be sentence decernit, that because the said Margaret's terce fell before the said Sir James superior's forfaulting, that the same terce could not be comprehended therein; and therefore, the said Margaret's lifetime she sould bruik her said terce, but any composition to the said donatar to the King to the lands foresaid that came in his Grace's hands be reason of the said Sir James's forfaulture.

*Fol. Dic. v. I. p. 314. Sinclair, MS. p. 35.*

\* \* \* Balfour makes the following observation on this case:

GIF any superiour happen to be forfaltit for crime of treasoun or lese majestie, his vassalis wife aucht and sould bruik the terce of the vassal her husbandis landis, gif the samin fell to her be ressoun of her said husbandis deceis befor the dome of forfaultour gevin and pronuncit aganis the superiour, albeit scho was not servit nor kennit thairto, nor in possessioun thairof before the said forfaltour; bot gif the terce fallis to ony woman efter the forfaultour, the same cumis under forfaltour in like maner as the twa part.

*Balfour, (TERCE.) No 28. p. 113.*

1570. *December 14.*

HOME of Manderston *against* TENANTS of Oldhamstocks.

No 24.  
A tack made with possession before the treason, and set for a sufficient rent, and for an ordinary endurance, is valid against forfeiture.

IN an action of removing persewed be Alexander Home of Manderston, donatar to the lands of Oldhamstocks, be forfaltig of N. Hepburn, Laird of Riccarton, against certain tenants of the said lands; the Tenants *answerit*, They had tacks for terms to run set to them be the said Laird of Riccarton, long before the said forfaulture, and they had been diverse years in possession of the said tacks given before the said forfaulture. The persewar *replyit*, That long before the date of the said tacks, the lands were become in the King's hands be forfaulture of my Lord Bothwell, immediate superior to the said Laird, *igitur*, the Laird of Riccarton's lands then came in forfaulture, and so the tacks were set be him who had no power to set them; the which reply was fund re-