

estate is sold, and so the landlord is changed, or only in the case of the removal of the tenant, according to the words of the Act.

The Lords found, that, this being a correctory statute, the words of it could not be extended. Dissent. Arniston.

---

1789. June 19. ARCHIBALD THOMSON *against* HARRY HILL, &c.

[C. Home, No. 119.]

THIS was a process at the instance of the Kirk-session of ——— against two of their elders, who had joined Ebenezer Askine, in order to oblige them to give up into their box some money which they had collected at Ebenezer's meetings, and which they pretended to dispose of.

The Lords assoilyied from the pursuit, on account of the manifest will of the contributors. *Iterum* Dissent. Arniston. In this question, two or three of the Lords declared it to be their opinion, that the elders, in conjunction with the heritors, had the disposal of the charities of the parish, not the elders alone.

---

1789. June 23. FERGUSON *against* M'GEORGE.

[Elch., No. 5, *Fiar* ; Kilk. No. 1, *ibid.*]

This was the case of a bond taken to a man and his wife, the longest liver of them two, and their heirs. The wife survives, and, by virtue of this destination, claims the fee of the sum contained in the bond. On the other side, the husband's heirs pretend it belongs to them. The Lords were considerably divided about this question. Some were of opinion, that the husband was sole *fiar* and the wife only *liferenter*, in the same manner as in lands or heritable bonds ; see Stair, *Title Liferent Infeft.* 1. 10 ; and this opinion was supported by the authority of Craig and Nisbet. Arniston was of opinion, that, by the import of the words, the husband and wife were conjunct *fiars*, each for the half ; that the longest liver was sole *liferenter* ; the heirs of the marriage, heirs of provision to both ; and in case of no heirs of the marriage, the husband's heir had one half, and the wife's heirs the other.

The President and the majority found, that, in respect of the conception of the clause, and the presumed intention of parties, the survivor was sole *fiar*. There were two circumstances in this case, which, perhaps, might have had some influence, *1mo*, The bond was writ by no man of skill ; *2do*, There were some presumptions that the money in the bond came by the wife. July 8th,