

1735. *November 25.* CUNNINGHAM *against* WALKER.

No. 3.

DISPOSITION to a man and wife in conjunct fee and liferent, and longest liver of them two for their liferent use allenary, and the heirs and bairns of the marriage in fee, which failing to the man's heirs and assignees; the man was found fiar, though there was a son of the marriage even before that disposition.

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1735. *November 25.* CHILDREN of FROGG *against* GRANGER.

No. 4.

HOUSES disposed to one in liferent, and the children to be procreated of his body in fee, the liferent found to be *ususfructus casualis*, but not because a fee cannot be *in pendent*, which was generally thought did not apply, but from different arguments of intention of the granter. (See DICT. No. 55. p. 4262.)

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1739. *June 22.—July 3.* FERGUSON *against* JEAN M'GEORGE.

No. 5.

A BOND of 1000 merks to a man and his wife, and longest liver of them two, their heirs and assignees, bearing the money borrowed from both husband and wife; the wife being the survivor, the money was found to belong wholly to her exclusively of the husband's heirs or nearest of kin. (See DICT. No. 9. p. 4202.)

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1740. *November 9.* CAMPBELL *against* CAMPBELL.

No. 6.

A DISPOSITION of some houses without either procuratory or precept, being made to the disponent's daughter for her own and children's aliment in liferent, and to three children whom she then had *nominatim*, and all other children that she should have in fee; and though several children were afterwards born besides these three; yet of the whole there having only two survived the mother; the Lords found that only these two had right to the subjects and that equally, and that the children who died before their mother never had any right; for they considered this only as a personal deed or obligation, and not as establishing a present right of fee. *Vide* Burnet *against* Burnet, 2d February 1737, *voce* LEGACY.