

No 7. is conveyed to several strangers jointly, in which case, the common rule of law takes place, *ubi duobus conjunctim disponitur, concursu faciunt partes*. Now, this holds more in the case of moveables, which by their nature more easily receive division than lands, and is consonant to the decision, February 2. 1632, Bartilmo *contra* Hassington, No 20. p. 4222.

THE LORDS found, That the husband hath right to the fee of the whole, and the wife to the liferent of the whole.

Fol. Dic. v. 1. p. 297. Forbes, p. 708.

1727. June.

EDGAR *against* EDGAR.

No 8.

A WIFE, during her marriage, having succeeded to some tenements and lands, did gratuitously dispoine them to herself and husband in conjunct-fee, and to the heirs and bairns of the marriage, which failing, to the husband's other heirs and assignees whatsoever. Notwithstanding this was a disposition without any onerous cause, the LORDS found the fee in the husband. *See APPENDIX.*

Fol. Dic. v. 1. p. 298.

1739. June 22.

FERGUSSON *against* M^rGEORGE.

No 9.

A BOND bore the sum of 1000 merks, to be received from the husband and wife, obliging the debtor 'to repay the same to the husband and wife, and 'longest liver of them two, their heirs, executors, or assignees.' The marriage having dissolved by the predecease of the husband without children, the question occurred betwixt the relict and the husband's children of another marriage, which of them was fiar? *Pleaded* for the Children, That the husband was undoubtedly fiar, and in *dubio* the fiar's heirs must be understood to be called. *Answered, imo, Esto* the husband had been fiar, the wife succeeded upon her survivance, and then her heirs are understood to be called, as being the heirs of the fiar. *2do*, The meaning of the clause is the same as if the bond had borne, 'and to the heirs of the longest liver.' THE LORDS preferred the relict, and found that the bond belonged to her as longest liver. *See APPENDIX.*

Fol. Dic. v. 1. p. 298.

* * * Kilkerran reports the same case :

WHERE a bond bore the sum to have been received from husband and wife, and was taken to the man and his wife, and the longest liver of them two, 'their heirs, executors, and assignees,' the marriage dissolving by the predecease of the husband without children, the sum was found 'to belong absolutely to the wife as longest liver;' several of the Lords dissenting, who were of opinion, that it resolved into a liferent only to the wife, agreeable to the ex-