

1789. February 25. GIDEON GRAY *against* ARCHIBALD SETON.

LIFERENTER.

A liferenter can sell no wood except coppice, not even although planted by himself.

[*Faculty Collection*, X. 116; *Dictionary*, 8250.]

SWINTON. If a liferenter may cut hagggs annually, why may he not let them grow; and then, after 20 or 30 years, cut them all together?

HAILES. There is one obvious reason why he cannot: when he cuts annually, a new growth begins the next year, whereas, by doing all at once, he deteriorates the estate. Suppose him to live for twenty-five years, if he cuts annually he will leave one twenty-fifth ready for cutting next year, one twenty-fifth to be cut in the year after, and so on: whereas should he, in the twenty-five years, cut the whole, there must be an interval of twenty-five years before there can be any new cutting at all: this would inroach very materially on the right of the fiar. I must observe here, that the permission asked by the factor proceeds on the supposition that the cutting down all the trees on an estate does not diminish the value of the estate; which is a great error.

Some other judges spake to the same purpose.

On the 20th February 1789, "The Lords refused the incidental petition of the factor."

For the petitioner,—A. Abercrombie. *Alt.* H. Erskine.

1789. March 3. STIRLING BANKING COMPANY *against* STEWART, ALLAN, and COMPANY.

FRAUD.

An insolvent person having purchased goods on credit, within three days preceding his bankruptcy, such purchase was presumed in law to be fraudulent; but, with respect to goods purchased before the *triduum*, the Lords judged it incumbent on the party desiring restitution, to prove actual fraud. On an appeal, the first part of this judgment was reversed.

[*Faculty Collection*, X. 84; *Dictionary*, 4949.]

ESK GROVE. There must have been bills of lading in the case of *Prince* and *Pallet* a century ago; and yet the Lords did not consider them as a transfer; and there has never been any decision to the contrary. In the case of *Hastie*,