

- No. 47. was set by the umquhile Earl of Cassilis *in anno* 1567, to a person particularly therein named, and his bairns, which behoved now to be found to be expired and extinct, seeing both the setter and receiver were deceased many years since, and that rentals ought to last no longer, and the words adjected thereto obliging the setter never to remove the receiver nor his bairns, could not extend to oblige the heirs of the setters, seeing it was personal; for he thereby only obliged himself not to remove; likeas he performed the same, for he never removed them; but that cannot be found obligatory to bind the pursuer to the bairns of the receiver, the receiver himself, and the setter also being both dead long since as said is; and where it was answered, that the adjection of that word, "rentalling his bairns, and obliging never to remove them," behoved to work something; he answered, That it did work this to them, that if the father, who was the special receiver, had died in the setter's life-time, the most that they could have craved was, that the setter could not remove them so long as he lived; but now he being dead, of no reason or practique ought it to last against the setter's heir; for otherwise, when this bairn shall bruik during his life-time, another of his bairns may thereafter bruik, which he alleged to be against law and practique. This allegiance was repelled, and the rental found sufficient to save the bairn of the special receiver of the rental unremoved during his life-time.

Alt. Neilson.

Clerk, Gibson.

Durie, p. 263.

1627. June 22. EARL OF GALLOWAY *against* TENANTS.

- No. 48. A rental to a man and his heirs *ad perpetuam remanentiam*, found to endure only for the lessor's and receiver's life-time *conjunctim*.

*Fol. Dic. v. 2. p. 418. Durie. Spottiswood.** * This case is No. 25. p. 7193, *voce* IRRITANCY.

1627. December 1. HARDIES *against* ———.

- No. 49. A tack having no definite time or ish, but to continue till a certain sum be paid to the setter, will be sustained against the setter, but not against a singular successor.

Fol. Dic. v. 2. p. 418. Auchinleck MS. p. 230.