

No 43.

'time of his death,' and fall to the pursuers as *heirs whatsoever* of Patrick, called by the deed 1721. As Charles survived Patrick, he saw that event which is said to have been unforeseen; yet did he not revoke the deed 1721, neither can the Court. The settlement of Auchlossan in the 1739, can have no further effect than as to the estate thereby settled.

*2do*, To the arguments from the supposed ambiguity of the expression *heirs-male whatsoever*, it is *answered*, That the expression is variously interpreted in purchases of rights, but not in settlements. When a purchaser is unwilling to communicate to the seller the nature of his family settlements, he takes his purchase to *heirs whatsoever*. This expression will, in law, be limited or extended according to the settlements; but in the settlements themselves it has a determined technical meaning, and must imply *heirs of line*.

'THE LORDS found no action competent to the pursuers, in virtue of the deed 1721 against the defender, to oblige him to denude of the estates of Inverey and Tullich.'

Act. *Miller, Brown et Lockhart.* Alt. *Wedderburn, Garden et Ferguson.* Clerk, *Kirkpatrick.*

*Fac. Col. No 193. p. 285.*

This cause was appealed.—THE HOUSE OF LORDS ORDERED and ADJUDGED, That the interlocutor complained of be affirmed.

No 44.

Just and lawful debts include bonds of provision.

1779. June 28.

THOM against LUNN.

A PERSON, after settling provisions upon his younger children, disposed his whole estate to his eldest son, in his contract of marriage, under the burden 'of his hail onerous, just, and lawful debts, presently owing by him.'

In an action for payment of the provisions, it was *objected*, That, being revocable at pleasure, and payable at the granter's death, they were not comprehended under the clause in the disposition.

'THE LORDS found the defender liable for the sums contained in the bonds of provision.' See PROVISIONS TO HEIRS AND CHILDREN.

Act. *Nairn.*

Alt. *Macqueen.*

*G. Ferguson.*

*Fac. Col. No 96. p. 350.*

No 45.

Import of a substitution in a right of lands conceived to one in liferent, and

1775. March 7. JAMES BOYD against WILLIAM GIBB.

PATRICK BOYD of Pitkindie died in 1681, infeft and seised in the lands of Pitkindie and Ballairdie; he left issue, one daughter, Janet, who was married to George Rattray; and of this marriage there were three children, Patrick, Elizabeth, and Margaret.