

ships, I have very frequently given the most laborious attention to it, and the result of that attention, repeatedly given, is that I cannot find reason for offering to your Lordships, as my opinion, that you should disturb the judgment. It is, undoubtedly, a case of very great importance, and a case of great difficulty; but, upon the best judgment I can give, I think the majority of the judges have decided rightly. I shall, therefore, trouble your Lordships by moving to reverse the judgment, putting that question according to the usage of the House, meaning, at the sametime, to vote for the affirming it."

1820.
GOVERNORS
OF HERIOT'S
HOSPITAL
v.
ROSS.

It was accordingly ordered and adjudged, that the interlocutors complained of in the said appeal be, and the same are, hereby affirmed.

For the Appellants, *John Leach, J. H. Mackenzie.*

For the Respondent, *Sir Saml. Romilly, H. Cockburn.*

<p>JOHN GEDDES, of the Verreville Glassworks, and formerly Manager of the Glasgow Glasswork Company,</p>	}	<p><i>Appellant;</i></p>
<p>ARCHD. WALLACE, for himself and the other Partners of the Glasgow Glasswork Com- pany,</p>	}	<p><i>Respondents.</i></p>

1820.
GEDDES
v.
WALLACE, &C.

House of Lords, 24th July 1820.

PARTNERSHIP—LIABILITY OF PARTNER.

The appellant was formerly manager of the manufactory of glass, called the Glasgow Glasswork Company, and, besides his salary, he was allowed, as a part of his remuneration, a share of the profits of the business, without being required to advance any capital. At the distance of many years, after the appellant had quitted that situation, a claim was brought against him for payment of a share of loss, said to have been sustained by the proprietors of the Glasswork, in winding up the undertaking, after the sale of the establishment.

The appellant, conceiving that he had been merely received as a partner, in subserviency to his character of manager, and that having brought no capital into the stock of the company, and being liable to be dismissed at pleasure by the company, that he was not liable for the alleged ultimate loss of the capital. The Court of Session held him liable for his share

1820.

GEDDES
v.
WALLACE, &C.
Vide Journals
of the House
of Lords.

of the loss, as a partner. In the House of Lords this was reversed, holding, "That the appellant ought not to be considered *as between him and his partners*, as a partner liable "to any share of the loss."

For the Appellant, *Robt. Forsyth, Fra. Horner.*

For the Respondents, *R. Gifford, John Cunninghame.*

1820.

THE DUKE OF
HAMILTON,
&C.
v.
ESTEN,
&C.

[2 Bligh, p. 197.]

His Grace the DUKE OF HAMILTON, and
MARQUIS OF DOUGLAS, his Commissioner, *Appellants* ;
MRS ESTEN, now Wife of SCOTT WARING,
and him for his interest, *Respondents.*

House of Lords, 24th July 1820.

ENTAIL—POWER OF LEASING—EXERCISE OF THAT POWER—
HOMOLOGATION—TURPE PACTUM.

Leases were granted by the late Duke of thirty or forty of his farms, at a rent less than two-thirds of their value at the time, and less than one-third of their present value, to John Boyes, the Duke's own confidential factor, who sub-let them, deriving a yearly surplus, or increase of rent, of £1376. These leases were let for the period of twenty-one years. The entail contained a prohibition against *alienating*. It permitted leases, but not to exceed twenty-one years' duration, and they were not to be let "*with evident diminution of the rental.*" Accordingly, it was stated, the above was a device formed to hurt the succeeding heirs of entail, and to benefit the respondent, who had lived with the Duke, and had begot him a daughter. An obligation under the hand of Mr Boyes was adduced, stating that it was agreed between the Duke and him, that he should hold whatever increase of rent he might derive from the sub-letting, or assigning, these leases, in trust for behoof of the said Mrs Esten, and her daughter, Ann Douglas Hamilton, and any other child or children that may be procreated between the said Duke and her, "and she has further reposed in me the trust and charge of collecting the surplus money "rents." After the Duke's death, in 1799, the present Duke, ignorant of his rights, acquiesced in Boyes so appro-