

## S E C T. XIV.

Under Sentence of Death.—Effect of Reduction *capite lecti*.—Ratification upon Oath.—Sale for a Reasonable Price.—Equivalent benefit to the Heir.

1593.

CANT *against* RAA.

No 107.

An obligation granted by a man under sentence of death, is no better than one granted on death-bed.

ANE Cant being convict for slaughter, and reddie to tak to the place of execution, his wyffis father, William Raa, in Edinburgh, cam to him, and desyrit him that he wald give him ane obligatioun for the soume of six thousand merks, quhilk he allegit the said Cant to be auchtand to him, quhilk the said Cant grantit, and thairupon the said Raa causit mak ane obligatioun, subscribit be twa nottars, immediatlie before the said Cant's executioun; thairefter this, Cant's air being persewit upon the obligatioun, *allegit* that it was null, becaus it was onlie subscribit be twa nottars, and the partie could wrytt. *Secundo*, It was subscribit *post contractum capitale crimen, et post latam sententiam mortis*, quhilk was mair nor give it had bene in *lecto ægritudinis*. Quhilk allegeance was fund relevant, and the obligatioun declarit to be of nane avail; reservand to the said Raa his actione for ony debt that he could pruve *aliunde*.

*Fol. Dic. v. 1. p. 220. Haddington, MS. v. 1. No 255.*

1677. December 11.

WILLIAM LOCKHART *against* The Legatee of JOHN LOCKHART, his Brother.

No 108.

Reduction upon the head of death-bed takes place only in time coming, and not *quoad* bygone fruits and annual-rents intromitted with by the dispo-  
nee.

DECIDED and found, a testament could not adminiculate a disposition of heritage, though it spoke his *enix* will, *quia non egit, quod in se erat*; they reduced a provision to his relict of 600 merks, *in toto*, because provided *aliunde*; but reduced only in time coming, and assoilzied from the bygone fruits and annual-rents intromitted with by them; and found, in all sicklike sentences, they must only take place, for the future, where the contrary is not insert in the decret.

*Fol. Dic. v. 1. p. 220. Fountainball, MS.*

\*\*\* See No 78. p. 3297.

1683. February 27. EARL of LEVEN *against* MONTGOMERY.

No 109.

RATIFICATION upon oath of deeds on death-bed, made by the granter, hinders not the heir to quarrel the same.

*Fol. Dic. v. 1. p. 220.*

\*\*\* See This case Section 7. *b. t.* No 41. p. 3217.