

I M B E C I L I T Y.

S E C T. I.

Euctus.—Lectus ægritudinis.

1675. February 24. HAMILTON against CHIESLY.

No 1.

A RELICT having done some deeds *in recenti luctu*, immediately after her husband's death, this was found to be no defence to her against performance; the allegiance of *luctus* not being warranted by our law or custom.

Fol. Dic. v. I. p. 421. Stair.

. See this case, No 3. p. 53.

1683. February. LADY BELFORD against SCOT of Horsliehill.

No 2.

IT being *alleged* against a wife's ratification of a deed granted with her husband, in prejudice of her jointure, That the same was elicited from her when she was in labour, and had her pains, and so was not in a condition to consider what she did, and that they should be looked upon as done *mortis causa*; and so is quarrelable now after her husband's decease.

THE LORDS ordained witnesses to be examined *ex officio*, and allowed some women witnesses.

Fol. Dic. v. I. p. 421. Harcarse, (STANTE MATRIMONIO.) No 874, p. 248.

. Sir P. Home reports the same case ::

1683. January.—MARY KERR, relict of Adam Kerr of Belford, having pursued a reduction against Robert Scot of Horsliehill, of a disposition made by her

- No 2. husband to Horsliehill, of the lands wherein she was infest, to which she was subscribing consentor, upon this reason, That the time of her subscribing the disposition she was under the pains of child-birth, and so was not capable to consider what she was doing, and that it was represented to her that it was but a temporary right, whereas it was an absolute disposition; and she being in her pains, she could neither read it nor hear it read to her;—THE LORDS, before answer, ordained the writer and witnesses, and commoner's midwife, and others who were present at the time, to be examined upon the true matter of fact, and the way and manner of eliciting the pursuer's consent to the ratification.

Sir P. Home, MS. v. 1. No 326. p. 469.

-
- No 3. 1686. December 7. A. against B.

THE LORDS found it relevant to reduce a discharge subscribed by a woman, that it was offered to be proved it was presented to her when in her child-birth pains; which the LORDS judged an unseasonable time, and that she was then *quasi in lecto, et vix satis mentis compos* to have the full exercise of her reasonable faculties; and allowed it to be proven by women witnesses, others not being allowed to be present *in puerperio*. See WITNESS.

Fol. Dic. v. 1. p. 421. Fountainball, v. 1. p. 434.

SECT. II.

Levity.—*Æstus amoris.*

1678. July 24. GRIERSON against TELFER.

No 4.
Levity, without interdiction or fraudulent inducements, not sufficient to annul a gratuitous deed.

GILBERT GRIERSON pursues a reduction of several bonds granted by him to umquhile Telfer of Haircleugh his uncle, on these reasons, *imo*, That the pursuer was known to the defunct, who was his uncle, to be a facile, lavish, and weak person, and yet he procured from him the bonds in question, without an onerous cause, and within three days thereafter procured from him a bond of interdiction to himself, upon account of his facility and weakness. *2do*, It was offered to be proved, that these bonds were granted of the same date with the bond of interdiction, or after the same; by which interdiction the defunct became as curator to a weak or prodigal person; after which he could do no