

No 36.

In this process, the wife and her second husband, and having repaired the other little tenement, which was ruinous, and built it much better than ever it was; for which they pursued for the reparations.

THE LORDS found, that they ought to have the reparation decerned, not only in so far as is necessary, but *in quantum*, the heir will *lucrari*, by getting greater mail to be paid at the wife's death, she leaving the tenement in as good case as now it is.

Fol. Dic. v. 1. p. 213. Stair, v. 1. p. 275.

No 37.

1668. January 21.

SHAW *against* CALDERWOOD.

THE LORDS found, That a wife being provided *in lecto* by her husband, her provision should be restricted and sustained as to a terce, she being no otherwise provided before.

Fol. Dic. v. 1. p. 213. Dirleton, No 141. p. 58.

* * The same case is reported by Stair, Sect. 3. *b. t.* No 15. p. 3196.

No 38.

1676. February 1.

LAWRIE *contra* DRUMMOND.

A disposition being challenged as on death-bed, the disponee alleged onerous causes, and descended, that he was creditor to the defunct by a clause of warrandice. The Lords sustained the disposition as a security of the clause of warrandice; but that the lands disposed upon death-bed might not be perpetually burdened with that relief, they restricted it to distresses occurring within seven years.

WILLIAM LAWRIE having adjudged the lands of Scotstoun upon a debt due by Mr John Drummond the apparent heir, and to his own behoof, pursues a reduction of a disposition of the saids lands granted by Sir Robert Drummond to Sir John Drummond, as being done on death-bed, which disposition bears, 'For love and favour, and for divers onerous causes;' whereupon the Lords did formerly find, that the disposition was sustainable, in so far as an onerous cause could be instructed; and thereupon Sir John having produced several debts due by Sir Robert to him, doth now insist, upon this ground, that Sir Robert was debtor to Sir John by the clause of warrandice of the lands of Meidhope, disposed by Sir Robert to Sir John *in liege poustie*, which not being for an equivalent cause onerous, anterior creditors might reduce the same, in which case Sir John could have no recourse upon the warrandice, the estate going to a singular successor; and it cannot be questioned but a disposition on death-bed, making a personal warrandice real, was for an onerous cause, and not reducible.

THE LORDS sustained the disposition as a security of the clause of warrandice of Meidhope, providing that any distress upon that clause be timeously intimate, and that Sir John make use of all the rights he hath to exclude the distress, either by virtue of Sir Robert's disposition or otherways; and that the lands may not be perpetually burdened with that relief, they restricted the