

No. 10.

lecti at the pursuer's instance as heir-at-law; and therefore found that the pursuer had no title either as heir or creditor to reduce the disposition in Christopher's favour.

1739. *February 13.*

MARGARET and JANET CRAIG *against* MALTSTERS of GLASGOW.

No. 11.

A DISPOSITION being made on death-bed to the granter's immediate heir, an infant, whom failing to the Maltsters of Glasgow; some of the Lords doubted if the judgment in Sir John Kennedy and Arbuthnot's case was right, * but agreed to reduce this disposition as in prejudice of the infant; and therefore the Lords found that this disposition was not only in prejudice of the remoter heir, but also in prejudice of the nearest heir at the time, she being an infant, and the estate being upon her failure even in infancy provided to a stranger, and therefore reducible *ex capite lecti*. But *quæritur*, will not even this decision justify that of Sir John Kennedy?

1740. *January 15.*

MACKEAN *against* MACKEANS.

No. 12.

BONDS secluding executors cannot be annailized on death-bed. (Harcarse's Decisions, 661.) † *2do*, Lands taken to one and the heirs of his body, whom failing to another person as substitute, *proviso*, that the fiar might at any time *etiam in lecto* redeem from the substitute by payment or consignation of an elusory sum; and he having accordingly used an order of redemption 13th November, and upon the 30th November when he was on death-bed, disposed them to another; this last disposition found reducible at the heir-at-law's instance, though he was cut out of the succession by the substitution in the original right, because that substitution had been taken away by the order of redemption.

1740. *November 18.*

HEDDERWICK *against* CAMPBELL.

No. 13.

DEATH-BED excluded by the immediate heir-at-law, (who was first instituted, and strangers substituted) who was a daughter, accepting the disposition, and conveying the subjects therein contained in her contract of marriage to her husband though in minority.—N. B. The interlocutor finds her attaining possession sufficient to exclude the reduction.

* Dict. No. 17. p. 3198.

† Dict. No. 42. p. 3219.