

No 71.

Nevertheless ' THE LORDS found, That the disposition in the year 1748, was not revoked by the disposition in the year 1758 ; but sustained the reasons of reduction of the bond for L. 1000 Sterling, as being granted on death-bed.'

Reporter, *Colston.* Act. *Lockhart, Miller, Advocatus.* Alt. *Montgomery, Sir D. Dalrymple.*  
*Fac. Col. No 6. p. 207.*

\* \* \* This case was appealed :

*January 29. 1767.*—ORDERED and ADJUDGED, That so much of the interlocutor of the 25th February 1765, as sustains the reasons of reduction of the heritable bond for L. 1000 Sterling, granted by Mark Pringle deceased, to Mark Pringle his youngest son, as being granted on death-bed ; as also, of the first codicil in question, subjoined to the last will of the said deceased Mark Pringle ; as being a deed of a testamentary nature, be, and the same is hereby reversed.

---



---

SECT X.

What circumstances infer Death-bed.

No 72.

1608. *December 3.* MR. NICOL GILBERT, Supplicant.

MR NICOL GILBERT being in great debt, and thereby forced to sell some of his lands ; fearing that men should skar to deal with him, because the impotency of his gout held him bed-fast ; by his supplication desired the LORDS to direct him some of their number to visit him and try his estate ; which being done, and they reporting, that albeit he was impotent, yet it was of a lingering infirmity, and that his memory and judgment was sufficient ; they ordained that the alienations to be made by him should not be subject to reduction as upon death-bed.

*Fol. Dic. v. 1. p. 217. Haddington, MS. v. 1. No 1494.*

No 73.

Found, that a husband, 12 or 13 days before his decease, being sick of a fever and flux, and not

1622. *February 1.* ROBERTSON against FLEMING.

UMQUHILE ——— Robertson gave infeftment of liferent to ——— Fleming his spouse, of a tenement of land, by the space of 12 or 13 days before his decease, which right was craved to be reduced by Robertson's heirs, upon this reason, viz. as done in *lecto aegritudinis*, the husband being sick of a fever and

flux four or five days before the infestment, which continued to the time thereof, and continually to the time foresaid of his decease, he dying within so short a time, viz. 12 days;—Thereafter it was *alleged* by the defender, That the infestment was but a liferent, given by the husband to the wife, who of the law could not be prohibit to help his relict upon death-bed. Attour it was offered to be proven, That at the time of the giving of the infestment, and divers days thereafter, the husband was in that state that he might have come out to the kirk or market, and that he lay not bed-fast, but sat at table, and eat and drank as at other times when he had health; and his sickness being a flux, that reason could not take away the excipient's right.—THE LORDS repelled the allegation, and found the reason relevant.

Act. Mowat.

Alt. Russel.

Clerk, Scot.

*Fol. Dic. v. 1. p. 217. Durie, p. 13.*

No 73.  
coming to  
kirk or mar-  
ket there-  
after, could  
not infest his  
wife in a life-  
rent.

1624. January 7.

SHAW *against* GRAY.

A MOVEABLE bond, granted seven weeks before the party's decease, but she being sick at the time, though not of a *morbus santicus*, and not coming thereafter to kirk or market, was reduced *ex capite lecti*.

*Fol. Dic. v. 1. p. 217. Durie.*\*\*\* See This case Sect. 7. *b. t.* No 32. p. 3208.

No 74.

1635. July 30.

RICHARDSON and LORD CRANSTON *against* SINCLAIR.

A SALE of lands made by a person paralytic, an year before his death, and while he was sound in his judgment and understanding, was yet found reducible *ex capite lecti*, unless he had come abroad after it.

*Fol. Dic. v. 1. p. 217. Durie.*\*\*\* See This case Sect. 7. *b. t.* No 34. p. 3210.

No 75.

1668. February 25.

PATRICK DUN *against* ISOBEL and ELIRABETH DUNS, his Sisters.

UMQUHILE DR DUN having provided 4000 merks to one of his daughters, and 10,000 merks to another, and entertainment during their minority, that their portion might go to the fore, bearing annualrent; did thereafter grant to Isobel another bond of 2000 merks; whereof Patrick his heir raises reduction, as be-

No 76.  
In a reduc-  
tion on death-  
bed, the de-  
fender offered  
to prove, that