

No 121.
 from inferior
 courts, not
 only for ini-
 quity, but on
 account of
 the impor-
 tance of the
 matter, such
 as the per-
 formance of
 a bargain re-
 lative to
 lands.

nent reclamation made by the said Agnes, from a decreet-arbitral given by certain Judges, betwixt her and the said Laird, alleging that she was enormly hurt, by giving of the said decreet, which ordained her to give over certain lands pertaining to her in heritage, to the said Laird, for a small sum of money and certain other lands;—it was *alleged* by the said Laird, That she was not hurt by the said decreet, because he was ordained by the same to give a sum of money together with infestment of a great quantity of lands heritably to the said Agnes. It was *alleged* by the said Agnes, That the said lands that the said Laird should give to her pertained heritably to Janet Cuninghame, her sister german, who deceased without heirs of her own body, to whom she was nearest and lawful heir to the said lands. It was *alleged* by the said Laird, That the said Janet, before she deceased, infest him heritably in the said lands. It was *alleged* by the said Agnes, That that infestment was made upon the said Janet's death-bed, she being deadly sick, likeas she was twenty days before, and deceased of the said sickness within three days after the making of the said infestment. It was *alleged* by the said Laird, That notwithstanding the said Janet deceased, as said is, yet the said infestment is good enough in itself, because the same passed upon a contract made two months before the said Janet's decease, obliging her and her heirs to make the said infestment to the said Laird of the said lands heritably; and the whilk time of the making of the said contract she was in good and sufficient health of her body, likeas she was many days thereafter, using and doing her lawful business in the country, repairing to kirk and market, at her pleasure, in sufficient health; and therefore the said infestment passed upon the said contract made long before, as said is, was good and sufficient in itself; which allegiance of the said Laird was found relevant, and admitted to his probation.

Fol. Dic. v. 1. p. 497. Maitland, MS. p. 182.

1629. *January 9.* BARON of BRUGHTON *against* KINCAID.

No 122.

COMPETENT to the Court of Session to advocate criminal causes *ad hunc effectum*, to remit them to other more competent unsuspected Judges.

Fol. Dic. v. 1. p. 497. Durie.

* * * This case is No 6. p. 4788. *voce* FORUM COMPETENS.