

No. 4. 1734, Feb. 15. BALLANTYNE *against* BALLANTYNE.

THE Lords found that the father being *fiar*, he could not prejudice his heir on death-bed, notwithstanding the faculty. Unanimously.

No. 5. 1734, Feb. 21. CHRISTIESON *against* KERR.

THE Lords found the *astruction* not sufficient, but prejudice to the defender to *astruct* further.

No. 6. 1736, June. 3, 16. BROWN *against* MUIR.

IN a reduction *ex capite lecti*, the Lords found the reason of reduction proved, and found the defence of convalescence not proved, although the deed was signed at Ayr and the defunct died at Irvine;—but the Lords sustained the defence that the disposition was written and signed by the granter's eldest son and apparent-heir, (this pursuer's elder brother) as witness, which they found imported his consent; but they seemed not to think that it would have been sufficient that the apparent-heir had only signed as witness, unless he had also been writer. June 16th Adhered without answers.

No. 7. 1736, July 30. CREDITORS of SIR P. STRACHAN *against* BALDWIN.

THE Lords found the reduction *ex capite lecti* competent to the creditors, and found the *liferent* reducible in so far as it was an annuity or may affect the estate, reserving action on the right of *terce* against *intromitters* as accords.—14th July.—30th July adhered.

No. 8. 1736, Nov. 24. EARL of ROSEBERRY, &c. *against* The LADIES PRIMROSE.

THE Lords adhered to the interlocutor 29th July, repelling the reason of death-bed; for the major part thought the market cross of Edinburgh a market place, though others, particularly Dun, &c. differed as to that point.

No. 9. 1736, Dec. 8. HENRYSON *against* HENRYSONS.

THE Lords refused the bill and adhered, reducing *ex capite lecti*, notwithstanding the natural obligation, and the order to write the deed before death-bed.

No. 10. 1738, Nov. 22, 28. WILLIAM IRVINE *against* AGNES IRVINE, &c.

THE Lords thought the obligation 1711 not delivered evident, and though it had, thought it alterable. They thought also that William, the substitute, could not quarrel the alteration any more than Christopher himself could quarrel, had he been cut out of the right. As to the decision of Sir John Kennedy and Arbuthnot, some of the Lords, particularly Arniston, doubted if it was agreeable to law;—and I own so did I, but I did not think we should vary in so important points of our law. But we all agreed that there