

1637. *March 15.*BROWN *against* LANDS.

JAMES BROWN, son to umquhile Mr Nicol Brown, being interdicted by Alexander Brown his uncle, whereupon publication was lawfully executed, and thereafter having given some bonds to James Lands vintner in Leith, one for payment of L. 200, and another as cautioner for the taverner-woman of the said James, for payment to him as cautioner for her of L. 300; these bonds were craved to be reduced at the instance of the said Alexander, upon the ground of the foresaid preceding interdiction, which extended as well in the conception of the same to moveables, as to immoveables.—THE LORDS found the reasons nowise relevant to reduce these two bonds libelled, which were not moveable bonds, against which the LORDS found, That interdictions ought not to militate, of whatsoever tenor they were; for the LORDS thought, That notwithstanding thereof, the creditors contracting after interdiction with the interdicted person, might have all lawful execution, both against his person and his moveable goods, as if he had not been interdicted, and therefore sustained the bonds.

Clerk, *Gibson.**Fol. Dic. v. I. p. 479. Durie, p. 837.*1662. *February 11.*RAMSAY of Torbanie *against* M'LELLAN.

DAVID RAMSAY of Torbanie having raised suspension and reduction of a decret against him, at the instance of Thomas M'Lellan, in *anno* 1658, insists upon this reason, That he being pursued as heir to his father, at the instance of Thomas M'Lellan, he proponed this relevant defence, absolvitor, because the bond pursued upon was granted by his father after he was interdicted, without consent of the interdictors, and so could not affect the person interdicted heir, albeit he had succeeded in his estate.—The defender *answered*, That the said allegiance was justly repelled, in respect of this relevant reply, that the interdiction hath no effect as to moveables and personal execution, neither as to any other lands than such as lay in the shires or jurisdictions where the interdiction was published and registrated, conform to the act of Parliament, *ita est*, this interdiction was published and registrated only at Linlithgow; and therefore, if the defender hath succeeded to any lands, not lying in Linlithgowshire, or if he hath meddled with heirship moveables, or be vitious intromitter with his father's moveables, he is liable for this sum, albeit after the interdiction, *ita est*, he succeeded to lands in the Stewartry of Kirkcudbright, and moveables, &c.; and therefore the defence was justly repelled.

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No 9.
Found in conformity with the above.

No 10.
Interdiction extends only to lands within the jurisdiction in which it is published and registered.

Found also, that interdictions do not affect moveables.

No 10. THE LORDS found the decret just, and therefore repelled the reasons of suspension and reduction.

Fol. Dic. v. 1. p. 479. Stair, v. 1. p. 96.

* * * The Court adhered to the judgments pronounced in the above cases, that interdiction has no effect as to moveables or personal execution.—20th June 1671, Crawford against Haliburton, No 78. p. 2741. *voce* COMPETITION; and 24th July 1678, Grierson against Tailzifer, No 4. p. 6298. *voce* IMBECILITY.

No 11. 1666. July 27. — against BLANTYRE.

— having intented a reduction of an interdiction, upon that reason, That Blantyre was *rei sue providus*; and that the pursuer had lent him the money due to him when he was in England, and in necessity; and being a stranger and a creditor, he ought not to be prejudged by such a voluntary interdiction; being upon a bond granted by the debtor without a previous sentence, finding Blantyre to be *prodigus*, or such a person as should be interdicted;

THE LORDS thought the case of that consequence, that they would not decide upon a report, but ordained it to be debated *in præsentia*.

Reporter, Lord Castlehill.

Dirleton, No 34. p. 14.

No 12. 1676. November 10. STEWART against HAY.

AN obligation, 'not to contract debt or dispoise lands, without the consent of such and such persons,' and inhibition registered thereupon, was sustained, though not in the ordinary stile of interdiction, the person bound up being insufficient to manage his affairs, through levity and prodigality.

Fol. Dic. v. 1. p. 478. Stair. Gosford.

* * * This case is No 5. p. 3092. *voce* CONSUEITUDE.

* * * Dirleton also reports this case :

LANDS being bought after interdiction, a reduction of the said interdiction was pursued at the instance of the buyer, upon these reasons, *imo*, That interdictions, by the common law, are only of *prodigi*, and interdictors are in effect given *curatores* to them; and, by our custom, albeit interdictions are granted *sine causæ cognitione*, upon bonds granted by persons interdicted, upon that consideration and narrative, that they are persons facile, and not fit to manage their estate, whereupon the judge presumes that they are such, and upon a