

the first part thereof bearing the return of the tocher, behoved to be interpreted with that same quality and condition, and could not divide and be of another nature, they being the parts of one individual provision and condition.

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1672. February 27. ————— against —————.

THERE being a reduction pursued of a disposition, made after interdiction lawfully published,—it was ALLEGED for the defender, That the reason was not relevant, unless it were likewise libelled that the party interdicted was hurt and leised.

It was REPLIED, That there was no necessity so to libel, seeing dispositions made by parties interdicted, without consent of these to whom they are interdicted, are *ipso jure* null; as in the case of a minor having curators, who grants a bond or disposition.

It was DUPLIED, That it was offered to be proven that the sums of money, for which the disposition was made, were profitably employed to the behoof of the disponent.

The Lords did sustain the duply, and admitted the same to probation; which is the first decision of that kind; the case of persons interdicted, and minors, being always before thought alike.

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1672. February 27. JACOB JAMART, Merchant, Bourdeaux, against HENRIE JOSSIE.

IN a reduction and suspension of a decret, obtained at Jamart's instance against Jossie, for the sum of 9000 livres, upon this reason,—That the decret was for null defence; and if he had compeared, he had a relevant defence to elide the libel; *viz.* That the ground of the debt being contracted at Bourdeaux, by the custom of which place, where a debtor to several persons makes a disposition of his whole estate,—the major part of the creditors accepting thereof,—it is sufficient to exoner him, not only at their hands who accept, but likewise at the hands of them who refuse; and accordingly Jossie had subscribed a concordate with the most part of his creditors, and had consigned his whole estate for their use: whereupon the Parliament of Bourdeaux, by a decret, had interponed their authority for the suspender's liberation; and so it was *res judicata* in France, according to their law and custom; which, *ratione loci contractus*, ought to regulate this case.

It was ANSWERED for Jamart the charger, That this allegiance, not being verified *instanter*, could not be received to stop justice and a legal procedure here; the suspender having had more than sufficient time to procure an extract of the sentence, if any such was, during the dependence of the first process, wherein decret was given by the bailies of Edinburgh: And albeit it were produced, yet it could not have furnished any such defence against Jamart; because such