

1672. February 27.

A. against B.

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 leased. It was *replied*, that there was no necessity so to libel, seeing dispositions made by the parties interdicted without consent of those to whom they are interdicted, are *ipso jure* null, as in the case of a minor having curators, who granted a bond or disposition. It was *duplied*, That it was offered to be proved, 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 minor being always before thought alike.

*Fol. Dic. v. 1. p. 479. Gosford MS. No 484. p. 254.*

1697. June 22. BOWMAN and POLLOCK against EARL of KILMARNOCK.

HALCRAIG reported John Bowman, merchant in Glasgow, and Thomas Pollock, taylor there, against the Earl of Kilmarnock, on the passive titles, for cloaths furnished to his father by the one, and made to him by the other, for several years, conform to their subscribed accounts and bonds. *Alleged*, The debt was null; and he repeated a reduction of the same *ex capite interdictionis*, in so far as he had disposed his estate to Mr Robert Stuart, advocate, in trust, for his own use, and obliged himself not to contract debt without his consent obtained, and that of other friends therein named; and which was duly executed, published, and registrated, and they were not consenters to the bonds now pursued on. *Answered*, This was not a formal interdiction, but rather a commission for managing his estate; but, *esto*, it were a valid inhibition, yet this can never restrain a man from taking of necessaries, either for aliment or habiliment, the design being to prevent the borrowing of money, as appears by the decision, Laird of Collington against Faw, No 23. p. 7148.; and Stair, 10th November 1676, Stuart *contra* Hay, No 12. p. 7132. *Replied*, If this be permitted, he may take off superfluous furnishing from many several hands, and the yearly rents ought to go towards defraying those necessary furnishings; and they should have affected the same, and not suffered him to squander and misapply them to other uses. *Duplied*, The accounts are moderate; and it is not pretended, that any other furnished him during that time; and if he had been restricted to an aliment, there might have been a pretence that they should have betaken themselves thereto; but he was still fiar, the disposition being only in trust. The first question arose, If they should be obliged

No 24.

A disposition by a person interdicted was not found to be *ipso jure* null, but reducible upon lesion, and so an averment that it was for an onerous cause was admitted to probation.

No 25.

Debts for clothes and such like not affected by interdiction.