

No. 8.

whether such reduction was competent here of the decret. *Pro* were, Milton, Drummore, Kilkerran, *et ego*. *Con* were, President, Dun, Minto. But without a vote, we remitted to the Lord Ordinary to hear parties procurators on the article of enorm lesion. N. B. There had been two former submissions in the English form by bonds conditional. See FOREIGN.

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1751. June 11. M'KENZIE of Redcastle *against* Sir THOMAS CALDER.

No. 9.

No nullity, that the award is to a certain extent *ultra vires*.

THERE being two submissions, one general of all claims excepting one particular, and thereafter a submission of that particular claim to the same arbiters, but without any general clause; the arbiters gave one decret on both, and *inter alia*, by mistake, ordered general mutual discharges of all claims prior to the date of the second submission. One of the parties objected this as a total nullity of the decret-arbitral, though he did not pretend to have any new claim arising after the date of the first general submission; but we thought it was no nullity in the decret. There have been many decreets-arbitral that ordered such discharges of all claims prior to the decret, which, though erroneous and *ultra vires* as to claims after the submission, yet were never found to annul the decret as to the matters submitted.

See Hepburn *against* Hepburn, 1st December 1736, *voce* HOMOLOGATION and *voce* WRIT.

See Kerr *against* Clerk, 19th February 1751, *voce* BILL OF EXCHANGE, relative to a submission by mutually accepting bills.

See NOTES.