

In France, Judges Novocales and Broctors are forbid to accept of Sales or Assignments of litigious Rights, Les Loix Civiles de Form. 3. Part 3. Liv. 5. Tit. 2. Sect. 8. pr. in fin. Things again, which are the proper Subject of Commerce are restrained as to the Manner of buying, by the Law against forstalling, regratins and ingrossings; or as to the Manner of selling, by the Law against Monopolies. All which are to be explained in the 2<sup>d</sup> Vol. concerning the publick Law

We may sell a great many Things at the same Time in one and the same Sale, and for one and the same Price, in gross and by the Bulk, as all the goods that are in a Shop, or in a Ship, all the Corn that is in a granary, all the Wine that is in a Cellar. l. 2. C. de per. et comm. rei vend. l. 8. §. 5. f. de contrah. empt. Provisions or other Things which are counted, weighed or measured, may be sold either in gross for one and the same Price, or at the Rate of so much for every Piece, for every Aum, for every Bushel or other Measure. l. 35. §. 5. f. de contrah. empt. Whatever makes a Part of the Thing sold, or is an Accessory to it, is included in the Sale, viz. Les Loix Civiles de Form. 3. Part 3. Liv. 5. Tit. 2. Sect. 4. Art. 1. & 11. The Seller is bound to indemnify the Buyer as to the Charges which he has put <sup>to</sup> v. g. the Expences for Carriages, the Duties for Entry, and others of the like Nature. l. 27. ff. de Edil. edict.

The Seller is obliged to declare to the Buyer any latent or secret Infirmity or Defect of the Thing sold, which renders it so unfit for the Use for which it was bought, that if it had been known to the Buyer, he would not have bought it; otherwise there is Place for Redhibition, that is, the Seller is obliged to take back the faulty Thing, and the Sale may be dissolved, and all Things reciprocally restored on both Sides to the same Condition they were in before the Sale. l. 19. §. 1. l. 23. §. 3. & 7. l. 60. ff. de Edil. edict. As if a Beam rotten and unfit for the Use to which it is designed to be sold, or a broken wine-cask, Horse that is unfit for Service, and too troublesome to be made use of, &c. Such Defects are sufficient to dissolve a Sale. The Purchaser of a Field may get the Sale dissolved, if there arise out of that Ground malignant vapours which render the Use of it dangerous. l. 99. ff. eod. Redhibition is so termed, because reddendo fit ut venditor habeat quod habuerit. If of several Things which match one another, such as the Pieces of a Suite of Hangings, Horses belonging to one and the same set, and other Things of the like Nature, one of them happen to have Defects which are sufficient to dissolve and annul the Sale, it shall be dissolved for the whole: For it is equally the Interest both of Seller and Buyer, not to mismatch these kind of Things. l. 38. §. ult. l. 34. l. 35. ff. de Edil. edict. If the Quality of the Defect of the Thing sold, be not such as, had it been known to the Buyer, he would not have bought it at all, but only that he would <sup>not</sup> have given so great a Price for it, it doth not annul the Sale, but the Buyer gets an Abatement of the Price

or a Reduction of so much thereof as the Thing sold comes short in value by reason of its faults or a Defect. Thus a Purchaser of Land liable to a service, which did not appear, and the Seller did not declare, may procure an Abatement of the Price. l. 61. ff. de Edil. edict. l. 9. C. de act. empti. Altho the Defects of the Thing sold were unknown to the Seller, yet the Buyer may procure a Dissolution of the Sale or Abatement of the Price, if these Defects were such as gave Occasion for it. l. 1. §. 2. ff. de Edil. edict. l. 2. §. 1. ff. de act. empti. For since he does buy a Thing only for its Use, if it chance to have any Defect which is not for this Use, or hinders it, the Seller ought not to reap the Advantage of more apparent Value which the Thing sold seems to have, and yet had it not. Where a Seller knew the Defects of the Thing sold, he is bound not only to the Buyer for the charges of the Sale, but is accountable for the consequences of Damage which the Defect of the Thing may have occasioned. Thus he who had sold a Fleck of Sheep knowing them to be infected with a contagious Distemper, without declaring it, would be bound to make up the Loss of other Sheep belonging to the Buyer which had been infected with the contagion. And it will be the same thing if the Seller was ignorant to know the Defects of the Thing sold, altho he pretends to be ignorant of them: As if an Architect had furnished Materials for a Building, and made use of such as were not such as in good Condition, it would be accountable for the Damage that should ensue thereupon. l. 13. ff. de act. empti. l. 1. C. de act. empti. l. 9. §. 5. ff. locati. That indigent Things were sent to the Buyer who received them is sufficient, making the Sellers Integrity is produce only of Sale of the Seller & being 1675 Paton contra Cockhart. Since it is not possible to restrain all the perfidious Dealings of Sellers, and that the Inconveniences would be too great to dissolve or call in Question Sales for all Manner of Defects in the Thing sold: We consider therefore these Defects only which render the Things altogether unfit for the Use for which they are bought, and sold, or of such Diminution that Use in such a Manner, or render it so inconvenient, that if they had been known to the Buyer, he would have either not bought them at all, or at least not given so great a Price for them. And in general it depends on the Custom of the Place, or on the Prudence of the Judge to discern by the Quality of the Defects whether the Sale ought to be dissolved, or the Price lessened, or whether any Relief at all ought to be had to the Defect. Les Loix Civiles de Form. 3. Part 3. Liv. 5. Tit. 2. Sect. 11. Art. 3. But albeit for latent Infirmity and Defects at the Time of the Sale and Delivery, as when Wine is mixed with Acery &c. if concealed and not laid open by the Seller, the Contract may be rescinded, or the Price lessened and taken down; yet if the Defects of the Thing sold are evident and obvious, as if a Horse has his Eyes put out, the Buyer cannot complain of