

Those who grant Rights must be such as can receive them. Some are incapable to grant any Rights, as those who want the free Use of Reason, and are under any Infirmity of Mind which renders them incapable of knowing ^{what} Engagements they make v. g. Idiots Madmen, and Deaf within the Age of Sapientia. But furious Persons may grant Rights in their lucid Intervals if they have any: And also those who are deaf and dumb may grant Rights if they appear to understand what is done, and give Consent by their ordinary known Signs *Stair lib. 1. c. 13.* But *Stair* = man having given a Discharge in her dumb Brother's Name of a warrant due to him bearing that she received the same and should warrant the Discharge at his Name: The dumb Man subscribing also the Discharge in the initial Letters of his Name, was found not to import his Consent, because the Money was delivered to her in the dumb Man's Presence, because he did not know the Extent of the Sum nor for what Years it was 9 July 116. *Hamilton contra a dumb Man in Glasgow.* A Person attainted for Treason who had granted Bond for Money laid out by him at his Desire, and paid for Payment, pleaded that the Obligation granted by him to the Pursuer was in Law void, and could neither afford Action nor be received as Evidence in any Court: Because the Pursuer was by Reason of his Attainder without Capacity to contract or bind himself to pay Money. It was answered that attainted Persons were under no Incapacity to contract or bind themselves. The Law says indeed that they cannot by Deed or Contract alienate to the Prejudice of the Crown: But nothing hinders them to acquire by Contract or any other Way, the said Acquisitions will go to the King. Therefore as no Person contracting with a ~~Person~~ ^{Man} attainted could object his Attainder to save him from Performance; far less is the Objection competent to the attainted Person himself. The Lords without determining the general Point whether one attainted was capable to contract found that there lay a personal Objection against the Defendant objecting his Incapacity to contract 24 Decemb. 1725 *Jacob Gomes Serra contra Robert late Earl of Cornwall.* Others cannot grant Rights to their own Prejudice, but may act to their Advantage as Minors having Curators not consenting. A Third Sort may dispose of their Movable Death Bed. Others again, can grant no Rights to the Prejudice of their Creditors, as Bondsmen. Some may grant Rights for onerous Causes, who are tied up from gratuitous Deeds, as Papists to the Prejudice of their apparent Heirs *Act. 26. Sep. 5. Par. R. W.* except in so far as concerns the Granters Person and movable Estate *Act. 3. Sep. 9. Par. R. W.* One by obliging himself both tacitly bind his Heirs and Executors. Where a Man bound only himself and his Heirs Male to pay, the Heir Male was found liable *primo loco*

and the Heir of Line secundo loco after the Heir presently named in the Obligation was first discussed 10 Febr. 1668 *Blair contra Underfan* ~~where the obligee was found liable to the Heir Male to the extent of the debt~~
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 Bond *Blair* In Causes involving papists and Interdicts or the like it is to be obliged the Heir to not expressly oblige them, unless it is stipulated who is obliged. Thus where a Wife in a contract with a Man gave that the Husband should have the interest of the fruit in the estate of the Wife's Father's goods, and should have the real part of it, it was held obliging her Father to give the estate, and not the Husband, because the Father, seeing the necessity of a bond, and the Husband's obligation effected 22 Febr. 1665 *Stewart contra Blair* and *Stewart*. But Obligations for performance of Things to be present a thing of a certain Nature personal, all Interdicts *Stair lib. 1. c. 13. p. 13.* before a special Law was found necessary to make the kind of Interdict possible. Behaviour of such a kind is not allowed in Scotland: *Stair lib. 1. c. 13. p. 13.* because they were not mentioned in the *Bona fide* *Act. 26. Sep. 5. Par. R. W.* By the Law of England, an Heir is not bound unless he be named in the Obligation the one Execr not named is bound *Case 1 Inst. 209. a. 210. b.*

Persons to whom Rights are granted must be such as can receive them. Some may receive Rights for onerous Causes, who are incapable of gratuitous Deeds in their Favour, to the Prejudice of the Heir Male or Executors, as conjunct and confident Persons. Others are incapable of either onerous or gratuitous voluntary Deeds in their Favour. Thus no Papist can purchase to enjoy by any voluntary Deed to him or others for his Religion, Lands or other real Rights or Grants of Lands or other which Deed is null *Act. 3. Sep. 9. Par. R. W.* And Rights in Favour of Convents or other papish Societies are void as to them, and accrue to the next protestant Relation to the grantor at the Time they were destined to be effectual. *Stair lib. 1. c. 13. p. 13.* Therefore an Obligation by one Roman Catholic to another, was reduced at the Instance of the Creditor's nearest protestant Relation, and declared to belong to him: In Respect the Debtor was held as confest for refusing to depone, if his Right was in Trust for the Benefit of the Congregation de propaganda Fide or some other papish Society 18 July 1710 *Sinclair and his Tutor Supplicants*. But Rights may be granted to those, who by Reason of their Age or Want of Judgment are disabled to grant such to others. When a Right comes to any Person by the Disposition of a Law, this Right is acquired by the Effect of the Law whether the Person knows or does not know the Law, and also whether he knows, and is ignorant of the Fact on