

Bills of Exchange a Feb. 1711. Brand contra Tenants of Riccarton wherein the Receiver's Name is not insert before or at subscribing, or at least in presence of the Witnesses at Subscribing. before Delivery are null. But Indorsements of Bills of Exchange, of the Notes of any trading company, are particularly excepted d. Act. 25. Because these, for the Benefit of Commerce, are allowed to pass from Hand to Hand without the Formalities of Indorsement. One who disposes his Estate to his only Son and the Heirs of his Son, having signed the Disposition with a Blank as to the Substitution; and subjoined to the Disposition a Power impowering a certain Person to fill up the Blank with the Name of a Friend and his Heirs &c. The said Disposition was found not to be fill'd up the Terms of the Act of Parliament 1696 ~~agent~~ blank Writs, and therefore must still be look'd on as Blank in the Substitution. Albeit it was pleaded for the Substitute, so that the Act concerned only Writs, whereof the Substitution depended upon filling up of the Blank, whereas in the Disposition the Substitute is fill'd up, and so the Writ being good as to the Blank of Substitution cannot be quarrell'd. 2^o The Law hath no Relation to a Blank fill'd up by the Proposer's express Order in a Writing signed before Witnesses, where there could be no Fraud nor Occasion of Plea, which the Law was calculated to prevent 13 July 1722 Sir John Kennedy of Culzean contra Arbuthnot. A false Designation of the grantor or Receiver of a Right, non nocet, ubi constat de persona. Craig Feud. Lib. 2. Tit. 3. §. 8. d. infra pag.

A False Demonstration or Description, doth not make a Right void, if it appear what is granted but if that be not known the Right can have no Effect if a Testator having sufficiently explain'd himself either as to the Person of his Executor or of a Legatary, or as to the Thing bequeathed, has added the better to specify either the Persons or the Things, some Quality or other Mark which would appear to be false; as if having nam'd the Executor or Legatary, he added these Words, who is son of such a one or of such a Country; or that having devised some Land or Tenement described by its Name, or by its Situation or otherwise, he had added, that he has bought the said Land or Tenement of such a Person; all these Additions altho' they should be found to be false, would make no Alterations in the Dispositions, which otherwise are clear enough. For if the Persons or Things are sufficiently described by the first Expression what is added to describe them more plainly being superfluous, will only make a Mistake which can do no Prejudice l. 17. ff. de cond. & dem. l. 75. §. 1. ff. de leg. 1. l. 76. §. 3. ff. de leg. 2. l. 40. §. ult. ff. de hered. inst. §. 30. Inst. de legat. vid. 11 Feb. 1686 Bill contra Major Ramsay. Thus an Infeudment of Annualrent to be uplifted out of the Lands and Barony of Balnamoon lying within

within the Parish of Menmuir, was sustained to affect and inelude of the Barony of Menmuir within that Parish, albeit Balnamoon was not a Barony, but only a part of the Barony of Menmuir which wrong Designation of the Barony of Balnamoon for Menmuir, was found not to weaken the Annualrent. Right or to restrict it to the Lands of Balnamoon; quia constat de corpore d. 19. Jan. 1620. Clackmanan contra Allan's Speltwood Inst. 4. Feud. p. 12.

A Right is either pure, or conditional, or in the performance whereof a Day is required.

A pure and simple Right, is that where dies statim credit et venit, which hath present Effect or which the grantor stands bound upon the Day to pay or perform and is in mora by failing when required to do it.

A conditional Right is that where dies nec credit nec venit which is not binding or of any Efficacy till something is performed or happens which may or may not be: so that this is but a Right in law till the Condition exist. For the Parties foreseeing Cases that may happen in they desire to guard against, usually regulate what they have a mind to do by Conditions, which are Qualities or Restrictions annexed to their Acts, modifying or suspending the same, and making them uncertain whether or no they shall have Effect.

A Condition is either suspensive or resolutive. A suspensive Condition is that which does accomplish the Contract made to depend on it, and hinders the Right to take Effect till something is performed or happens, which may or may not be. In Contracts whose Accomplishment depends on the Event of a Condition all Things remain in Suspence, and in the same Condition as if there never had been any Contract, untill the Condition happens; the Party having in the mean while only an Expectation without any Right. And if the Condition does not happen the Contract is void. But when it comes to pass, it makes the Contract effectual. And the Event of such a Condition hath sometimes a retroactive Effect Les Loies Civiles &c. Tom. 1. Part. 1. Liv. 1. Tit. 1. Sect. 4. §. 6 & 7. A Clause in a Contract of Marriage obliging a Father in his own Lifetime to pay Portions to the Children at their Age of 15 years or Marriage, they marrying with his Consent, was found not to import Payment thereof at the said Age or Marriage, which of them should first happen, but that it was suspensive of the Payment of the Stock till it appeared how the Children would marry, they getting the Annualrent from that Age till their Marriage. But it was not determined, whether if they should never marry, their Portions would belong to their nearest of Kin 21 January 1679 Straitoun's contra L. Lauriston. A Resolutive Condition, is such as dissolves a Contract, or