1680 L. Fetterneer contra L. Semple. Nor was the Freedom [illegible] Marriage sustained to annul a Clause in a Bond of Provision by a Father to his Daughter, that if she married without his Consent while in Life, or [illegible] Consent of these nam'd by him to be Tutors and Curators to her after his [illegible] the Provision should be void, and she should only have the Sum of which he never fill'd up. But the Lords found the Clause to be both just and necessary, and that if the Daughter had transgress'd the Clause, they [illegible] might fill up the Blank and restrict the Sum according to the Condition of the Family and the Parties matched. But the Daughter was found not [illegible] incurr'd the Restriction of her Provision, unless the Clause had been known to her 23 Feb. 1681 Hamilton contra Hamiltons. A Father having granted a Bond of Provision to his Daughter containing this Clause, that if she happened to marry without Consent of her Mother and Brother, 2000 Merks of the Daughter's Provision should fall and accrue to the Brother: the Brother [illegible] found not to have Right to the said 2000 Merks, for his Sister's bestowing herself in Marriage without previously obtaining Consent either of Mother or Brother; In Respect the Mother consented after the Marriage, and the Brother being a Party interested to whom the Benefit of the Abatement of the Sister's Provision did [illegible] upon the Contravention, his Dissent was not to be regarded, unless he could assign just and rational Grounds for it, and reipublicae interest mulieres dotatas esse 20 July 1688 Pringle contra Pringle and Rutherford. An Uncle having granted a Bond to his Neice she marrying with his Consent; it was not understood, that the [illegible] should be purified if there was no just Cause of Dissent, tho his Consent was never required, 17 January 1673 Rae contra Glass. Because such a One's Assent is mere arbitrary, and he needs render no Reason for it but his particular Disaffection to the Husband. Nor was his Consent to the Match inferr'd from his Subscribing Witness to the Contract of Marriage: Because his subscribing Witness imported only that he saw the Parties subscribe; and not that he read or considered the contents of the Writ, and tho he had known the Contents of it, yet there being no Mention of his Bond in the Contract, he might after so long a Time have forgot that there was such a Bond. Nor yet was his Presence at the Marriage, or living thereafter with the married Persons, found to import that Consent, unless he knew that his Bond was specially treated of 17 January 1673 Rae contra Glass.

A Condition must be uncertain; as an Act of a Man's free Will, or some casual Event. For a Right conceived under a Condition certainly to happen, as if one die or if an Ecclipse be such a Day which is known by the Rules of Astronomy, is a pure and absolute Right to a Day, that is, which is presently binding, but not to be performed till such a Time. A Condition must also relate to Futurity. For if it respect the present or past Time; as a Right in Favour of Titius if he with take Care of the Granter's Affairs, or hath taken Care of them tho unknown to

to the Parties; the Obligation granted upon such Condition, is either effectual or null from the Date according as the Condition hath happened or not; only some Time is required for trying the Matter of Fact l. 37. l. 39. ff. de reb. cred. l. 100. ff. de verb. oblig.

Sometimes a Condition is [illegible] a Right, tho not express'd; which arises from the [illegible] Variety of Rights. Thus an Obligation to pay a [illegible] implies this tacit Condition if the intended Marriage take Effect or be perfected. [illegible] Offers imply the Condition if the other Party accept 25 June 1667 Allan contra [illegible] for mutual Contracts the Obligation upon [illegible] Party [illegible] his Subscription, implies this Condition if the other Subscribe also. The Obligation upon a [illegible] [illegible] the principal Party subscribe. A Disposition of Lands [illegible] implies this resolutive Condition, that if the Vassal alienate the major Part without consent of the Superior the whole returns to the Superior [illegible] of Lands [illegible] implies that if the [illegible] be not [illegible] of two years the Feu shall be null Act 246. [illegible] A Disposition [illegible] Warrandice imports this Condition, that it shall take Effect [illegible] Lands. Dispositions for Relief of Cautionry imply their not being Effectual till Distress, and their Extinction by Relief: As Rights to a Creditor for Security of Payment of his Debt [illegible] cease so soon as the Debt is satisfied and the Author's Right revives. The Fee of a particular Office with Lands and [illegible] annexed to a Man and his Heirs, without Mention of Assignys or Substitutes is understood with this Condition that the Heir be capable to exercise the Office and ceases by his Incapacity: But if granted to a Man and his Assignys, with Power of Substitution the Fee may be enjoyed by another for his Behoof, Stair Lib. 2. Tit. 3. § 47. 48. 49. 51.

A Right granted in diem or to a Day is that where dies cedit sed non venit: that is it is presently binding but Diligence and Execution thereon is suspended to a Day. In which Case dies interpellat pro homine, the Debtor is in mora after elapsing of the Day, without Necessity upon the Creditor to make Requisition for Performance. I call that a Right to a Day, where the Day is certainly such as will happen, tho it be not known when it will happen: As a Right to take Effect at the Granter's Death. Which differs from a Conditional Obligation in that the Latter is annull'd by the Creditor's Dying before the Condition exist, whereas the Former upon the Creditor's Dying before the Day passeth to his Representatives. An Obligation to a Day that is absolutely uncertain both whether it will happen, and when, is conditional and the Effect thereof suspended till that Time l. 21. & l. 22. ff. quand. dies legat. ced. 15 Feb. 1637 Lauder contra Goodwife of Whitekirk.

Tit. 3.

Of Irritancys and Resolutive Clauses.

An Irritancy is a Clause providing that the Right shall be null and reducible for