

Not their effect but by the intent of the Condition on which they Depend. But we Must Not reckon in the Number of Conditional Legacies all those in which the Testator may perhaps have Made use of the word Condition. For conditions are often confounded with the Charges or engagements which the Testator imposes on Legacies, as when he Charges his Legatee with an Annuity in favour of a third person, or leaves him a Legacy on Condition that he pay the Annuity whereof the Nature Depends on a Condition, so as that until it be Accomplished the Legatee can have No Manner of right as if the Testator bequeathed a sum of Money, in case the Legatee be Married or have Children at the time of the Testator's death, Altho the word Condition be Not expressed in the Testament. A Man having ordered his Wife to pay a Legacy to his Sister, if she follow the Wife ad vicem, that was found Not to be a suspensive Condition to hinder payment of the Legacy, but only Obligatory upon the Legatee hereafter in case she miscarried and took not the Wife's advice, to Restore the Legacy to the Wife; and she was not put to find Bailion for that effect, the Condition being a General 25 July 1862. *Naismaith contra Jaffray*. If the Testator had Made the Legacy depend on a Condition that were either unjust or impossible, this Legacy would be of the Nature of a pure and simple Legacy l. 53384. It is said that impossible conditions in Testaments are held as Not Mentioned, and not Annul that part of the Testament to which they are adjoined § 10 Inst. d. 9. *Harco.* Where obligations or Contracts under impossible Conditions are null l. 31 d. oblig. & Act. l. 4 § 20 Verb. oblig. The Reason given for such Difference is, because Men Contracting or obliging themselves under impossible Conditions, are reckoned to be trifling and not so serious in the Matter, but all persons being presumed to be serious in Making their Testaments, the impossible therein is impossible Conditions if held to proceed from a Mistake, *Id. ibid. Sup. pag. 529.* A young man who thought his wife was with Child having bequeathed a certain sum to one in case his the Testator's wife should bring forth a Male Child, and a Greater sum if she happened to be a Daughter, the Legacy of the Greater sum was found effectual tho she brought forth No Child, from the presumed Will of the Testator to Gratify the Legatee rather in that Event, than if his wife should have a Child 18 July 1866 *Widderburn*

*Widderburn contra Scrimzeor* offered by *Dirloune* in which case the Child was understood to be a Living Child, and the Legacy of the Greater sum found effectual tho the wife brought forth a dead Male Child, being born Mortund and a dead Child is reckoned Nullus in law 26 July 1866 *Fules Eodem ibid.* Legacies whose effect Depends on an Uncertain time, that is of which there is No Certainty that it will ever happen, are of the same Nature with Conditional Legacies. For they imply the Condition that they shall Not have their Effect, unless the fact here Comes to pass. We are Not to reckon in the Number of Conditional Legacies, a Legacy which the Testator hath bequeathed in terms well seem to Demand the Approbation or Consent of his Executor. As if he had bequeathed a sum of Money if his Executor should think well of it, or should judge it to be just and reasonable, or even on Condition that his Executor should be pleased with its such terms would not make the Legacy depend on the said Executor; but they would show only that the Testator had Considered his Executor as a Reasonable person, whom he was willing to engage by this Facility to Execute his Intention with pleasure and Cheerfulness l. 4 § 10. *Ad Legat. l. sed sine Privileg. d. l. Form. 1 part 2 Liv. 3 Feb. 1. Sect. 8. d. l. 7.*

Grants of things bequeathed or interest of legacies of Money is due only from the time of the demand by the legatee l. 1 l. d. *Inst. d. fruct. legal.* If the Testator had ordered Nothing about the same

A Particular Legacy is either written or Nuncupative. A written Legacy or gift in prospect of Death, may be effected in Testament, or Codicil or in any other writ, as a Contract, Ticket or Letter, whether there be a formal Testament or Codicil or Not 1 Decemb. 1829 Executors of *Hot contra Rael* Legacies, but cannot be effectually Const. thro by a Bill of Exchange 9 Novemb. 1722. *Fulton & Clark contra Blair* Legacies may be given either in one or in different Writs of the same or of different dates. Where Legacies are contained in different Writs, all come in pari passu without respect to the order of time they were Made; and posterior do Not Derogate from former Legacies, unless the same be specifically