

1733. *June.*BAILLIE *against* DAWSON.

No 10.

BLANK bonds require intimation, and all exceptions emerging betwixt the date of the bond and intimation good against the cedent, will be sustained against the assignee; so compensation was sustained.

Fol. Dic. v. 1. p. 103.

* * * See The particulars *voce* COMPENSATION.

* * * Campbell of Cefnock *against* Murray of Blackbarony, No 86. p. 970.

SECT III.

Effect of a Blank Writ after the Death of the Proprietor.

1622. *December 6.*HAMILTON *against* ROSS.

IN an action betwixt Hamilton of Milburn and Ross, the Lords found an assignation made by the cedent, and delivered blank in the name of the assignee to the receiver upon his own trust; might be filled up by the receiver of the assignation, with any person's name he pleased to insert as assignee, and which he might do, and fill up and insert the name in the blank after the cedent's decease, albeit it remained blank all the time of the cedent's life; seeing by making of the assignation the cedent was denuded, and the delivery of the same blank, in effect gave him liberty to fill up what name he pleased; in filling up whereof with any name the receiver thought convenient, the cedent, who was lawfully denuded, by subscribing of the assignation, could not have prejudice.

Clerk, *Scot.*

Durie, p. 37.

1669. *February 23.*The EARL of KINGHORN *against* CARNEGIE of Pittarro.

IN a declarator pursued at Kinghorn's instance to hear and see it found, that a bond subscribed by Kinghorn's father to Pittarro, but delivered to Alexander Keith, then his agent, blank in the sum, was null and void; seeing it was never filled up, nor delivered, till after both the death of Kinghorn and his agent; and was only filled up in the sum of 1060 merks by those that intromit-

No 11.

An assignee to a blank writ found entitled to fill it up after the cedent's decease.

No 12.

A deed, blank in the sum, not filled up till after the death of the granter, found null.

No 12.

ted with Keith's papers, who delivered the same to Pittarro: It being *alleged* for the defender, That Keith by his missive, which was produced, granting him to be debtor to the defender in greater sums, he was *in bona fide* to receive the bond from Keith, who had power to fill up the same as he pleased: THE LORDS, before answer, ordained Pittarro to be examined upon oath anent the manner and time how that bond came in his hands; and those that meddled with Keith's papers to produce all writs they had, that it might be known that Keith was truly debtor to Pittarro.

Gosford, MS. p. 46.

1670. February 3.

In a declarator at Kinghorn's instance, against the Laird of Pittarro, to hear and see a bond of 1000 merks, granted by Kinghorn's father to Pittarro, found null and void, upon this reason, that the bond was subscribed, blank in the sum, and delivered to Alexander Keith, who was agent for the Earl, and remained blank during both the said Earl's lifetime and Alexander's, and was then filled up in the sum by Keith's relict, or her brother, who delivered the same to Pittarro; whereupon Pittarro being examined upon oath, and one Alexander Keith, who was a friend of the deceased Alexander, and who knew that conveyance: THE LORDS did sustain the declarator, and decerned the bond to be void and null; notwithstanding it was *alleged*, that the bond being now in Pittarro's possession, and delivered to him for as much money due to him by Keith, for which he got a decret extending to this sum, it was lawful to fill up the same, it being intrusted blank by the Earl of Kinghorn; and that it ought to be presumed that the Earl of Kinghorn was debtor in as much, there being an account produced condescending on the particulars; only they reserved action, at their instance, against Kinghorn for any debt that they could make appear due by his father to Keith.

Fol. Dic. v. 1. p. 103. Gosford, MS. p. 100.

1678. January 4.

PEEBLES against The TENANTS of ROSSIE.

No 13.

An executor found to have right to the sum in a bond, granted blank to a defunct; but bound to find caution against distress, upon any bond similar in the date, witnesses, &c.

— PEEBLES being confirmed executor to the Laird and Lady Rossie, pursues the tenants for payment of the duties resting before the defunct's decease, and for certain bonds granted by the tenants to the defunct; the tenants having deponed, one of them acknowledges a bond granted to the defunct, wherein the creditor's name was blank. The question occurred to the Lords, whether that tenant should be obliged to pay the sums according to his blank bond; the difficulty on the one part being, that the tenant might be distressed for double payment, at the instance of any party whose name should be filled up in the bond; and if such bonds should not be effectual for executors or arrefters, it were easy to disappoint their diligence by taking blank bonds.