

S E C T. II.

Provisions payable at the Granter's Decease, or at a distant Term certain.

No 10. 1687. July. ELLIOT *against* ———.

ONE Elliot having granted a bond of provision to his second son and his sister, payable to them, their heirs and executors, the next term after the granter's decease; in the end whereof, it was provided, by a distinct clause, That notwithstanding the payment was delayed till his death, yet the money should not be payable by his heir, till they respectively attained to the age of 16 years; under which condition, these presents are granted, and no otherwise;

THE LORDS found, That the clause imported a condition, being *inter liberos*, and was not *prorogatio termini solutionis*; and that the same did not belong to their executors, unless they prove they attained to 16 years; though here there was no substitution or return mentioned.

Fol. Dic. v. 1. p. 424. Harcurse, (BONDS.) No 215. p. 49.

No 11. 1717. December 7. CAMPBELL of Calder *against* RUTH POLLOCK.

A FATHER having granted to his second son a bond of provision payable five years after date; the son dying before the term of payment, the question occurred, if this bond was payable to his assignee. It was *argued*, that it was conditional, viz. "if the son should happen to survive the term of payment," equally as where such bonds are conceived payable at a certain age, which are never due, if the children arrive not at that age. *Answered*, That *dies incertus habetur pro conditione, non dies certus*. THE LORDS found the bond valid and assignable by the son, notwithstanding he died before the term of payment. See APPENDIX.

Fol. Dic. v. 1. p. 425.

No 12. 1730. January 14. BELL *against* DAVIDSON.

A MAN granted a bond of provision to his grandchild, for love and favour, payable the first term after his decease. This was argued to be of the nature of a conditional legacy, which could have no effect, the creditor having pre-