

for a man
- how in holy orders, that on the contrary, he tells us a Bishop should be
the Husband of one Wife; 1 Timoth. 3. 2.

Prohibitions of Marriage founded upon the Law of God or Nature, cannot
be dispens'd with by a humane Law. But Persons prohibited only to mar-
ry by some civil Constitution, may be joined by the special Dispensation
of the civil Power. l. 1. & l. 2. C. si nupt. ex rescript. ^{but what} And what
ever the Laws of Princes forbidding the Marriages of ^{Popes and} Plebeians, of
Tutors or their Children with the Pupils, of Christians and Jews &c. may
work to disappoint the respective Interests of the married Persons or their
Issue; they cannot unroll or dissolve such Marriage-ties Navi. lib. 1.
tit. 4. §. 6.

Sect. 3.

The Effects and Consequences of Marriage while it stands
Some of the Effects of Marriage while it stands, do concern both the Hus-
band and the Wife equally; others do primarily concern the Husband; and
a third Sort do more immediately respect the Wife.

Effects of Marriage concerning the Husband and Wife.

By the Roman Law a Wifes Goods are divided into bona dotalia,
paraphernalia, et receptitia. Of the two last I shall speak hereafter, and con-
tent my self here to observe, that every thing belonging to a Woman at her Mar-
riage remains fully her own, except the dotalia vix: what she was pleas'd to
bring, or some other Person gave as Dowry or Marriage-portion, call'd by
us her Ties; whereof the Husband had only the Administration and Enjoy-
ment, or Profit during the Marriage to support and defray the Charge of the
the married State. This Ties, if not estimated being considered as the Property
of the Wife, was to be restored to her at the Dissolution of the Marriage, unless
it was agreed by the Marriage Articles that it should remain with the Hus-
band. Where the Dowry was estimated or a Value set upon it, the Husband as
Proprietor thereof had Power to dispose of it; and was answerable at the
Dissolution of the Marriage for the Value. Not only the English ^{and} Civil Inst.
tit. anglie. lib. 1. tit. 10. §. 10. but most of Nations even those where the
civil Law is still of greater Weight (Casan. de consuet. Burgund. tit. 4. Du-
aren ad tit. ff. de rit. nupt. Groenweg de legib. abrog. in cod. lib. 3. tit. 28.
l. 19.

have departed from the civil Law in this Matter. with whom our Custom
doth very much agree For there is Nothing wherein the Law of Scotland dif-
fers more from the Civil Law, than in the Rights of Man and Wife. From
this conjugal Society there arises to married Persons a Kind of Communion
of Moveables, or common Interest in one anothers moveable Goods; because
the Husband has Right to the Wifes Body and she to his; 1 Corinths 7. 4. And
mobilia sequuntur personam. But some things moveable as to other be-
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gal Effects, fall not under this Communion, as moveable Bonds bearing
Annuitrent Act 39. Par. 1. Sect. 1. Ch. 2, howship Moveables, paraphernal
Goods, alimentary Provisions, Gifts to a Husband excluding his Wife, or to her
excluding him. Of all which, and also concerning the special Interests of
Husband and Wife, and the former's prerogative beyond the latter, in the
Goods under Communion, I shall treat in the proper Places.

All Donatives betwixt Man and Wife are revocable by the grantor, at any
Time during his or her Life, etiam in articulo mortis: for these Reasons: 1^o he
mystico amore se polient, lest striving to outvieh each other in their gifts, as
Testimonies of Love, they should impoverish themselves 2^o lest a Wife
should study more to enrich herself than to educate her Children. 3^o Because
from the Denial of such Gratification, jars might arise betwixt Man and
Wife. This Revocation is either express or tacit.

The Donor may revoke expressly, either by Word or Write; a written Do-
nation must be called back by a written Revocation: nam nihil est tam naturale,
quam unumquodque dissolvi quo colligatum est modo. A Husband was allow'd
to revoke a Bond granted for an yearly Alimnt to his Wife living separately
from him, upon his offer to cohabit with her and alimnt her according to
his Means; albeit the Bond bore a Renunciation of the Privilege to revoke;
because the Renunciation itself was donative inter virum et uxorem but
the Revocation was declared effectual only in Time coming, and not de pre-
-terito while the Wife had actually lived apart and alimnted herself 6 Feb.
1666 Livingston contra Begg. A Husband's Need partly onerous, partly
gratuitous, was found revocable, in so far as it was gratuitous the Excess being
considerable, 20 November 1662. Children of Wolmet contra Douglas Lady
Wolmet and her Husband. Because otherwise the Law against conjugal Donations
might be easily eluded. A Man having, to oblige his Wife to return to his Family,
which she had deserted because of Maltreatment, granted Bond to pay her a year-
ly Alimnt in Case of a supervening Separation thro' his Fault; and she having
upon just Grounds of further Severity against her diverted again from him,
and procur'd a Decree modifying a yearly Alimnt to her which she actual-
-ly had: a Charge thereafter against the Husband at her Instance for the ali-
-mentary Provision in the Bond, as being greater than the Lords Modification,
was simpliciter suspended 6 January 1790 Blair contra Hunter. Because
what was necessary for the Chargo's Alimnt, being already tried and deter-
-min'd according to the Suspendor's Fortune, the Overplus charged for, was sine
-causa and therefore revocable. A Wife was allow'd to revoke her Acceptance
of a Right in Satisfaction of her Contract of Marriage 12 Feb. 1663. Child
of Morison contra his Heirs. A Bond conceived in Favour of a Man and
his Wife and her Heirs, is understood to be a Donation revocable by the Man,
who is presumed to have lent the Money Navi lib. 1. tit. 4. §. 10. seeing
the Wife is not to be thought to have any Means for purchasing herself;
et vitanda suspicio turpis questus.

A tacit Revocation of conjugal Gifts is gather'd from after inconsu-
-tent Deeds of the grantor as 1^o By his disposing to another. Thus assigna-
-tion