

In respect the Bonds to which he was assigned ^{was extinguished} by the Cedent's discharge
 the Assignation was completed by judgment, or made publick any Manner
 of Way by Intimation or Possession 8 June 1719. Removal of Foreign
 contra Fullerton of that Ill. For seeing the Cedent was not ejected
 denuded by the incomplete Assignation the Time of the Dispositi-
 he and not the Assigning stood their Creditor in the Bond; and as the Dis-
 position to him could not be quarrelled upon the Act 1621, being in Favour
 of the Creditor and not to his Prejudice; And that the Cedent might be
 be debarr'd personall objections from founding upon Extinction of the Bond
 assigned by his own Discharge contrary to the Warrantice in his own
 Assignation: No such Thing could be pleaded against the Cedent's single
 Successor, who is no Ways answerable for his Father's fraudulent Deeds.
 For understanding how far Children as Creditors to their Fathers
 for their Provisions may reduce posterior Deeds of the Father's in Favour
 of other Children, Observe 1. That Heirs of a first Marriage
 = not reduce Provisions to Children of after Marriages, as in Dispositi-
 on Provisions in the Father's first Contract of Marriage; Because
 they as Heirs to their Father are oblig'd to fulfill his Deeds. But
 the Provisions in the first Contract he conceives in Favour of
 = ones of the Marriage who are inherit; the Father cannot wrong them
 posterior Provisions to other Children. In the Case of personal Pro-
 = sions to Children of different Marriages, they have all an equal Claim
 as coequally onerous, till some prevent the rest by Priority of Diligence.
 For a Father making a necessary Provision to a Child, is not understood
 defraud those formerly provided; but such a Deed is rather to be ascribed
 = luti than fraudi. 2. A Person having provided his Land and a certain
 Sum of Money to his Heir of the first Marriage, and having in his
 Contract of Marriage with a second Wife provided the Children of
 Marriage to what should be conquest therein: The Children of the second
 Marriage can have no Right but with the Burden of the Sum provided
 to the Heir of the first Marriage. Because Conquest is illud quod sup-
 = est devicto are alieno: And the Heir might reduce the Provision
 made to the Wife and Cairns of the second Marriage, in so far as con-
 = cern'd the Sum provided to him. But this may be doubted in Respe-
 there was no Debt, the Purpser being Debtor to himself. And it seems
 hard that the Heir cui nihil deest, should exclude the Wife and Child-
 of a second Marriage from Money conquest during that Marriage; tho'
 if it had been acquired in the Time of the first Marriage, it might
 improperly be termed as alienum 3. A Father oblig'd in his Contract
 of Marriage to provide his Children to a certain Sum, having got sev-
 = ral Children and disposed the whole to one of them: The others could
 not quarrell that Disposition upon the Act 1621 as to their Prejudice
 unless

unless all were equally deserving, and the Father or Child preferred had
 used indirect Means to exclude the rest, Because 1. The Father being
 Debtor to the Children tanquam stirps, and not in capita, he satisfies
 his Obligation by settling the Provision upon any one of them. For the
 Design of such a Provision is not, to secure one Child against another
 of the same Marriage, but to secure against Children of another Marriage:
 These being Reason to jealous the Father in the one Case and not in the
 other, because his Affection is presumed to be the same to the whole Issue
 of a Marriage; and what Judge can make a juster Disposition than a Father
 among his own Children? And it were not the Interest of the common
 = wealth to take away or restrain the Father's Power of Distribution in
 such Cases that is a Check upon the Children's Behaviour, for encourag-
 ing them to Virtue and discouraging Vice. 2. 'Tis an ordinary Cause
 in Contracts of Marriage, that the Father should have the Disposition of
 Money provided to Children of the Marriage: And general Statutes are
 commonly made in Law according to what is ordinarily practiced; that
 being understood the tacit Will of Persons, who in such Cases expressly
 Will of others. And if at subscribing the Contract it had been questioned
 who should have the Power of Disposition, it would certainly have been
 = edged in the Father. But if of the Father should discover any pro-
 = portability to one Child more than to another equally, if not more deserv-
 = ing, or if the Creditor should use any unlawful Way to get the whole
 Provision intrench'd to himself: The Judge perhaps might interpose to
 = arth us. *M. Henzie Observe on Act 18. Dec. 28. J. 5. vid. infra pag. 145. 1451.*
 Rights made to conjunct or confident Persons without an onerous
 Cause are reducible at the Instance of any Creditor, tho' he hath done
 no Diligence. Thus Reduction on a Bond for a considerable Sum
 granted by one Brother to another, bearing for borrow'd Money payable in
 = five Weeks Time, and instantly after the Term of Payment, was found
 = reducible as gratuitous and made to defraud the granters Relief and Cre-
 = ditor by her Contract of Marriage: Unless the Creditor in the Bond had
 = instructed the onerous Cause thereof 6 Febr. 1707. *M. Lirie contra*
 = glens Conditional Creditors, or those whose Term of Payment is current
 = may quarrel gratuitous Deeds of their Debtor in favour of a conjunct or
 = confident Person. But their Reduction takes not Effect till his Condition is
 = fulfilled, or the Term elapsed. For Example a Purchaser of Lands with ab-
 = solute Warrantice, may reduce a posterior Alienation of a Part of the Sel-
 = lers Estate to a conjunct or confident Person without an onerous Cause,
 = as in Defraud of his Warrantice Security; tho' the Lands sold to him
 = were not evicted, and so the Warrantice did not actually take Place.
 = Again, Reduction as capite inhibitionis hath been sustained in such a
 = Case, to take Effect in the Event of Distress. Which is conformant to the
 = civil