

1679 Cathcart contra Glasgow. A Disposition by a Father of his whole Estate to his eldest Son in Fee, reserving his own Life, with a registered lease for life, was reduced at the instance of posterior Creditors. ^{granted in his} Although the Contract of Marriage with the Son's Mother had brought a great Portion with her, she was obliged to invest him with a Part of a Marriage. In respect the former continued to act after the Disposition as absolute Feoffees and Proprietors, and they who traded with him were bound to know that he was entitled, the Register of that time having been carried away to Scotland by the Keeper thereof, who had concluded of his Trade. Besides the Father's Contract of Marriage did not oblige the Father to invest the Son in Fee, but only as Heir, which would have subjected him to his Creditors. Case of 4 Decemr. 1673 Reid contra Reid of Sandilands & Decemr. 1674 A Bond granted by a Brother subscribed at the same Date therewith, before the same Witnesses, was not sustained against an Assignee as being a fraudulent Deed to deceive any that might be induced to give it to the Receiver of the Bond upon the Faith thereof, in case the Debtor in the Bond could show a reasonable Cause for his granting it, or taking a Discharge at the same Time. 4 Decemr. 1684 Thomson contra Thomson That a Person desired Resignation and Judgment granted to him upon a Disposition from his Brother, might be kept secret, and suffer the Disposer to continue thereafter in Possession, during which Time he borrowed Money, was sustained as a relevant Discharge of Fraud, to annul the Disposition and Judgment as to the Money of the Vendor of that Money 15 Decemr. 1671. Duff contra Forbes A Son's gratuitous Discharge to his Father of a Sum formerly paid to him in his Contract of Marriage by the Father, was annulled at the instance of the Son's posterior Creditors, upon this Ground, that it was procured between the Father and Son at the Time of the Contract, that the said Sum should be freely discharged, and these Creditors were inspired by the Contract to trust the Son who was a trafficking Merchant. 21 January 1600 Caddel contra Reath. And generally latent Rights among conjugal Persons are rescuable by posterior Creditors. Stair Lib. 1. Tit. 9. §. 15. First Year Bonds of Provision by a Father to his Younger Children. Marriage (in Consideration whereof the Father got his Daughter in Law, which was considerable) not being delivered till after the Disposition, were reduced in so far as they might affect the Son's Right. Because, as these Bonds were not obligatory till Delivery or Death of the Grantor, or were indirectly revoked by the Disposition: So they were but latent Rights, which neither the Son nor those contracting with him were obliged to know. 10 January 1660 L. Glencorse younger contra his Brethren and Sister

Reduction is not only competent to the defrauded Creditor himself, and to his Heir, but also in Cases not a few even to a singular Successor, and to the Creditors, in Relation upon the Act of Parliament 1625 was not excluded by a separate Right in the Person of the Defencer, without Prejudice to his Preference thereon as accords 18 July 1677. Murray contra Murray It being in arbitrio judicis to put the Parties to dispute their respective Rights, or any one Right quare, &c. But the former Course is not usually taken, except where the Parties are poor, to prevent Expence of further Expence.

Our Law is more suspicious of one unfavourable to Dispositions made to conjugal and conjugal Persons than to others, in so far as Dispositions granted to conjugal and conjugal Persons without an onerous Cause are rescuable at the instance of the Disposer's Creditors, whether they are in Possession or not, and the onerous Cause thereon must be proved otherwise than by the Narrative of the Right itself, which, tho' it be a granted onerous Cause, is prohibited to be granted, but the contrary is induct. 12 Feb. 1622 Denison contra Young 18 January 1676 Craik contra Craik 19 January 1670 Starrfield contra Brown. The Reason is, because Affection and Intimacy between Persons is the ordinary Temptation and Encouragement to a Deed to the Prejudice of Creditors. Slightness of Conscience, and a traditional Rule quod pro negligi opportunitate vendendi potest, et id quod pro gestum est videtur. 1. 27. c. 10. com. It is not distinctly determined, whether such are conjugal Persons. But Blood makes them, and certainly, all Affinities and Descendants in the right Line, and Brothers and Sisters 24 November 1671 Whitehead contra Lidfordale, Uncle and Nephew Aunt and Niece in the collateral, are said. The Denomination of conjugal Persons is extended also to Brothers and Sisters in Law 18 January 1676 Craik contra Craik 24 January 1683 Craik contra Craik 15 June 1710 Laffie contra Creditors of Laffie for whom there are apt to do as much, as for Blood Friends. Upon which Account they cannot be sustained as Witnesses for one another. See George M. Kerse, Years. on Act. 18. Stat. 23. §. 6. reckons Cousin germane of the Number of conjugal Persons, because the Law (Act 18.) speaks of defrauding Creditors by Deeds in Favour of Cousins Kinsmen and Allies, under which Denomination he comprehends Cousin germane; and it were more reasonable to put these to the Trouble of proving the onerous Cause of Rights granted to them, which they may do by keeping up the Documents, than to expose Strangers to be cheated by clandestine Deeds patched up between so near Relations. But yet Cousin germane 8 June 1714, McDougal of Freugh contra Fullerton of Red Gill. And an Uncle and Nephew in Law 8 Feb. 1712. Lord Elbank contra Downson and Calander were found not to be conjugal Persons, because such are not hindered to judge in one another's Affairs Act 18. Stat. 2. Nor are they marrying two Sisters, where there is but affinitas afinitatis, understood to be conjugal Persons.