

The Heir for payment. Heir Male and of Tailzie taking assignation  
 of their predecessors debts, may as assignees be cur against the  
 heir of line, if the Debt was heirtable; or against the Executors,  
 if Moveable; for the Debt acquired to the Debtors heir is then  
 Extinguished by Confusion, when the heir succeeds in Universum  
 Jus vel patrimonio Debitoris, and not when a part only falls  
 to him. A Man having in his Contract of Marriage oblig'd himself  
 to Employ 30000 Munks to the heirs of the Marriage, and assign'd  
 also his heirs and Executors to Employ at his Decease 15000 Munks  
 more to his Younger Children; if the heirtable Estate fail, he  
 of inheriting the sum provided to the heir, the heir if a son should  
 have what he wants of his 30000 Munks as his precipitation and  
 of the Executors, preferable to the other Children, who can  
 claim their 15000 Munks out of the remainder, if there be so  
 much. But if all the Children of the Marriage be females,  
 they must divide the whole Estate heirtable and Moveable  
 among themselves, being Creditors in the 30000 Munks and  
 of Provision, and Debtors to themselves in the 15000 Munks  
 provided to the other Children. But if these provisions be  
 in a second Contract of Marriage, the son of the first Marriage  
 as heir of Line, would be liable to the son of the second  
 as heir of provision without any confusion. He wants indeed  
 to Ditch don't get Confusions tollitur obligatio.

Extinction by Confusion is some times Absolute, and some  
 times only Temporary, according as the Debt and Credit fall  
 always, or only for a time in the same person. It is only tempo-  
 rary or hath the Effect of a Suspension while the Debt and  
 Credit continue in the same person 27 January 1728 Murray  
 contra Nelson and Lanes during which time Execution  
 it must cease, because one cannot pay to or Discharge him-  
 self, which Suspension goes off and the Debt takes force  
 soon as the Debt and Credit fall in Different hands as with  
 a Wadsetter. Acquires right to an Annual rent out of  
 the Wadset Lands, the Annual rent Revives when the Wadset  
 is Redeemed. And tho' an assignation to an heir Male of a  
 Debt due by his predecessor, can have no effect during his  
 life, if there be no heir of line or Executor. Yet after his death  
 his own heir Male will succeed to him in the assignation  
 and may there upon pursue his heir of line or Executor for  
 Payment

Payment: for the taking an assignation and not a discharge,  
 Argued a Design to have the Debt and Credit divide after his  
 Death, by his heir Male, succeeding to him in Credits, and the heir  
 of line in Debts. Heir Ab. Tit 18. Sq vers. Confusion tollitur  
 always takes place. Again, a man having disposed the bulk  
 of his Estate to his second son and heirs male of his body,  
 which failing to his younger Daughter and her heirs, oblig'd  
 the second son and his heirs to pay the expenses whole Debts  
 as if he were his heir: The second son upon the death of his elder  
 brother was left as heir to his father in some heirtable not contain'd  
 in the tailzie which was provided to heirs whatsoever. The  
 son who was thus both heir of line and tailzie to his father and  
 Debtor and Creditor as to debts, being both the tailzie  
 Estate descended to his younger sister as heir of Tailzie, and the  
 entail'd portion to her and an eldest sister daughter as  
 her heirs of line equally. The eldest sister daughter as heir  
 of line to the mother and brother, was in thine to have from  
 her Aunt the heir of tailzie, being of the nature of debts, with-  
 out discussing or recurring upon her one of the heirs of line, in  
 that the former of both the Estates in the person of the brother,  
 did not absolutely extinguish the obligation of the first, but only  
 during the time that the Estate was in one person 21 Decemb.  
 1680 Lady M. Cunningham contra Lady Fairford.

They have a yet more peculiar way of Extinction, which is  
 In England, Called Waging of Law, Concerning which I shall say  
 a little more in this Chapter.

Wages of Law.

Waging of Law, is when one is sued for a debt upon a Contract  
 made in secret, or which the plaintiff cannot prove by Spe-  
 cialty i.e. by Bond bill or the like Instrument, the Defendant  
 is allowed to challenge him to Wage Law, that is to put in  
 Surety that he will face Legem Make Lem, i.e. Discharge  
 himself of such debt at a certain day by taking an Oath at  
 the Bar, that he doth not owe it or any part thereof, and bringing  
 with him Eleven of his Neighbours or so many persons as the  
 Court shall order that will avow upon their Oaths, that they  
 Believe it to be true what he hath sworn. The finding Surety to