

have at his death; being the Communion of Goods between Man and wife than Beake, and the Goods fell under Division at the same time when the Disposition was to take effect 70 January 1679 Grant contra Grants. A Legacy left by the testator to his wife, is not Imputed a Satisfaction of her legal Share, but is wholly due, ^{out} of the dead part 12 January 1681 Grotter contra Rochead. Nor is she excluded from this legal Provision, by a conventional Provision in her Contract of Marriage, not bearing expressly to be in Satisfaction of the legal 12 Decemb. 1712 M Hulay of Brindcapla contra Bees. Nor by Gifts of Money or other Things made to her by her husband Decemb. 1720 Lady Balmain contra Lieutenant Grahams because the Making ad ad (Act 10 Par. 3 ~~Act 2~~) to exclude a wife who hath a life rent provision from a force of land, unless expressly referred to her in the same Writ, without mentioning any thing of Movable, doth imply, that these were industriously omitted. Where a bond payable to a Man and his wife the longest liver of them two bond is Annualment, the wife which had her Option to claim either her life rent up of the whole, or a legal Share of the Principal Sum, but not both 24 June 1683 Senior contra Executors of Murray, and a Becket provided to a life rent of her husband's goods, cannot also claim a third of them by the provision of law, but she may have her option of either which Election being once made, she cannot vary 26 July 1686 Minries contra Bunnels 2 Feb. 1677 Bolms contra Marshals. Because a life rent and a third of the property of the same goods are incompatible, but it was found, that she might claim the life rent of Sums bearing Annualment, whereas the law gave her no share, with the property of a third of what was simply Movable. Eodem die, inter Executors. The same of the whole right to her self, Content with the life rent, without claiming her Election of any Share of the property, being the providing her to such a life rent, Imposed that there should be no Communio bonorum, from which only the legal provision is left. It being inconsistent that she should be both proprietor and life renter, she fructuformalis. A Becket provided to a life rent of all the Goods belonging to her husband should sell and made Money of the Horse Oxen and such goods as may perish to the end she may life rent the Money and made it forth coming after her Decease, but a competent time ought to be allowed her for doing so. And if the goods perish in the interim, she might not be liable for the same, and the flow of Money and Movable Goods are also die to a Becket is Explained after ward pag. 1528.

By the Civil law the Quota of the Legitim is Regulated according to the Number of Children to whom such portion of the testators goods is due in this Manner. If there are four Children or a lesser Number, they have all of them together for their Legitim a third part; but that third Remaineth Entire to one only Child, if there be no more than one, or is divided among them all according to their Number Each of them having for his Legitim his Equal Share of this third part. If there are five Children or a greater Number, they have all of them for their Legitim the half of the said third part, the said half being divided among them all according to their Number, each of them having for his Legitim his Share of the said third part, and that it Remaineth Entire to one only Child, if there be but one Novel 18 Cap. 1. But in Scotland, as hath been hinted above, if there be a Becket upon Children the Legitim is only a third of the Movable; and if there be only one Child and no Widow surviving, then the father they get the half as Children for their Legitim. It is not possible to reach upon the Children's Legitim by any Parliamentary or death Becket 13 July 1687, King the Contra Olymptie. Shaw 16. 3 Feb. 4 844. If a the Legitim of their father's goods which pass to them successively upon the death of their father cannot be excluded or diminished or impaired by any Parliamentary or Mortal Cause Donation, the Modus in Regis publici and not on death (Act 1728 Henderson and him) shall her husband's Goods as a Becket because these take no effect till after his death. In Proposing this Legitim among several Children they might reciprocally to bring in and Exclude that which they had formerly received from the parent to whom they succeeded. The Nature and origin of Collation (which been already Explained supra pag. 1444). All Children of both sexes in familia are obliged to this Collation, but not Grand Children or Children for infamiae, because these have no right to a Legitim, and therefore should not Communicate to the other Children any share of the goods which they had acquired before the Succession was open. For the same Reason Collation is due only to such as have a right to a share of the Legitim, and not to those who have renounced it, what ever a father gave to his Children on occasion of their Marriage, whether to a son as a fullson or upon being on to a Daughter as a portion, or laid out for purchase of some office for one of the Children, is subject to Collation l. 17 l. 20 C. D. Collat. But things given to one or other of the Children with this express Declaration, that it should be to such Child as an advantage over and above what the other Children have by Succession are not subject to Collation Novel 15 Cap. 6. Neither do Children Collate that which hath been laid out upon their Studies, or in other ^{expens}