

\*n.1.

Howbeit where a man by his contract of Marriage oblig'd himself to provide the Equal half of the conquest to himself for the use and benefit of the children of the marriage in Fee; It was found that he became thereby Trustee in the Fee of such conquest for the benefit of the children of that marriage, and that after decease of the mother action was competent to the only child of that marriage against the Father in his lifetime for Implem<sup>t</sup> of the provision in his contract  
4 February 1726 Gibson & Arbutnot contra Majoribanks of Halliards

\*n.1. But the provisions in contracts of marriage will so far as they go be implied in satisfaction of any former special provision they will by no means extinguish any undetermined general claim as a Legitimate 16 July 1678 Murray contra Murray, 18 January 1726 Nicholls contra Nichol off Dalston, or a clause of inheritance 4 February 1726 Gibson & Arbutnot contra Majoribanks of Halliards, which are not so held as to admit of any thing like compensation, or Imputation; nay, properly speaking are not in being at the time, but do afterwards happen at the Father's death or dissolution of the marriage; So that such provisions are understood as gifts flowing from paternal Affection, and not as payment or Anticipation of a claim that having no proper Existence till afterwards, is not presumed to have been, under consideration, 2nd vol. 1. pag. 1049.