

A party who contracts a second marriage, cannot dispose by marriage contract in favor of his second wife of any portion of the *conquêts* of the first community, or of a greater portion of the *acquête* than that accruing to a child taking the smallest share. (1)

#### CIVIL EFFECTS OF MARRIAGE.

Some of the effects of marriage arise from natural law, others from the civil law.

One of the effects which the civil law gives to marriage, (differing from the law of England,) is the legitimization of children born before the marriage of their parents, and even although one of the parties may have contracted a marriage in the interval between the birth of the child and the marriage of the parents. The attempts of the Bishops of England to introduce the rules of the civil law with regard to legitimization, and the celebrated reply of the Lords, form the celebrated Statute of Merton; "*Etrogaverunt omne episcopi magnates consentirent quid nati ante matrimonium essent legitimi sicut illi qui nati sunt post matrimonium, quantum ad successionem hæreditariam, que ecclesia tales habet pro legitimis. Et omnes comites et barones una voce responderunt quod nolunt leges Angliæ mutari quæ hujusque usitatæ sunt et approbatæ.*" (2)

The offspring of an adulterous intercourse cannot be rendered legitimate. The marriage from which legitimization can be derived must be capable of producing all the civil effects of a marriage. There are certain marriages, which, although they are null, are yet, on account of their having been contracted in good faith, and in ignorance of the impediment which rendered them unlawful, are so far favored, that the issue are legitimate. A marriage of this description, or, as it is termed, a putative marriage, will not have the effect of legitimating children previously born. The legitimization is to be determined by the law of the domicile of origin, notwithstanding there might have been another domicile acquired by the parents, or by their offspring before the marriage. From the very nature of this status, there seems great

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(1) Keith vs. Bigelow, 2 L. C. R., p. 175.

(2) Burge Col. Laws, p. 110.