

No 217. *momenti, et ubi requiritur scriptura*, it is necessary to have the consent of the husband, and unto the giving of discharges and acquittances.—THE LORDS, after long reasoning, repelled the reasons of the summons, and found, by interlocutor, that a wife might not give acquittances and discharges, without the advice and consent of her husband, *quia vir est caput uxoris, et de jure nostro, durante matrimonio, maritus est dominus omnium bonorum.*

*Fol. Dic. v. 1. p. 403. Colville, MS. p. 330.*

1587. *June* LAIRD OF PITTAROW against his TENANT.

No 218.

THE LAIRD of Pittarow warned a tenant to flit and remove from certain lands. It was excepted that since the warning the Lady being *præposita negotiis familiae*, had received from the defender three hogs as duty of the ground. *Answered*, that the allegiance was not relevant, except he would say that the lady had received the same at the command of the Laird her husband; and so found by the Lords.

*Fol. Dic. v. 1. p. 403. Colvil, MS. p. 417.*

1622. *March 16.* MACMATH against HOME.

No 219.

A person having borrowed money from a wife, and given his obligation, was found *in tuto* to repay the sum to the wife and retire his obligation, though he was informed by the husband that the money was his.

SIR GEORGE HOME was pursued by William Macmath, to make payment to him of a certain sum of money, alleged borrowed by the said Sir George from Janet Nisbet, spouse to the said William Macmath, whereupon he had given to her his obligation, and which the said William alleged he had intimated to the said Sir George, while he remained debtor in the said sum; and this summons was referred to Sir George his oath, who granted the borrowing of the sum from the said pursuer's wife, and that he had given her his obligation thereupon, and that William Macmath acquainted him therewith, and desired him to take order for the same before he had repaid the sum; but he declared, that thereafter he had paid the sum to the pursuers wife, to whom he was bound by his bond, and retired his own bond again out of her hands, &c. which payment made to the wife, the LORDS sustained, and assolizied the defender from the husband's pursuit.

The like was done 19th July, 1634. betwixt Guthrie, cook in Edinburgh, and Betson of Cardin; where upon a bond and inhibition delivered by the creditor's wife to the debtor, who had payed a part of the debt to the wife, for