

if by forcibly marrying a woman, he could prevent her from being a witness, who is perhaps the only witness, to that very fact.

IN the civil law the husband and the wife are considered as two distinct persons; and may have separate estates, contracts, debts, and injuries<sup>e</sup>: and therefore, in our ecclesiastical courts, a woman may sue and be sued without her husband<sup>f</sup>.

BUT, though our law in general considers man and wife as one person, yet there are some instances in which she is separately considered; as inferior to him, and acting by his compulsion. And therefore all deeds executed, and acts done, by her, during her coverture, are void; except it be a fine, or the like matter of record, in which case she must be solely and secretly examined, to learn if her act be voluntary<sup>g</sup>. She cannot by will devise lands to her husband, unless under special circumstances; for at the time of making it she is supposed to be under his coercion<sup>h</sup>. And in some felonies, and other inferior crimes, committed by her, through constraint of her husband, the law excuses her<sup>i</sup>: but this extends not to treason or murder.

THE husband also (by the old law) might give his wife moderate correction<sup>k</sup>. For, as he is to answer for her misbehaviour, the law thought it reasonable to intrust him with this power of restraining her, by domestic chastisement, in the same moderation that a man is allowed to correct his servants or children; for whom the master or parent is also liable in some cases to answer. But this power of correction was confined within reasonable bounds<sup>l</sup>; and the husband was prohibited from using any violence to his wife, *aliter quam ad virum, ex causa regiminis et castigationis uxoris suae, licite et rationabiliter pertinet*<sup>m</sup>. The civil law gave

<sup>e</sup> Cod. 4. 12. 1.

<sup>f</sup> 2 Roll. Abr. 298.

<sup>g</sup> Litt. §. 669, 670.

<sup>h</sup> Co. Litt. 112.

<sup>i</sup> 1 Hawk. P. C. 2.

<sup>k</sup> Ibid. 130.

<sup>l</sup> Moor. 874.

<sup>m</sup> F. N. B. 80.