

No 185.

goods, upon which William craved compensation against John's annual legacy ; therefore, they sustained John's oath, and the quality adjected thereto, viz. That the said goods sent to him by his brother Robert were gifted to him ; and rejected the compensation craved upon the furnishing of these goods." This is against the brocard *nemo donare præsumitur quamdiu debet*. But all these circumstances foresaid accumulated induced the Lords.

*Fountainball, v. I. p. 63.*

1682. *March, November, December.*

GRANT & GILCHRIST against PRINGLE.

No 186.

THE affording horses and carts to carry away household furniture from one person to another, found not to infer that it was gifted by the one to the other.

\* \* \* This case is No 242. p. 6032. *voce* HUSBAND AND WIFE.

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S E C T. XI.

Money given upon Receipt.

1703. *January 7.* GEORGE OGILVIE against ALEXANDER ABERCROMBIE.

No 187.

Receipt granted for money, in general implies an obligation to re-pay.

GEORGE OGILVIE of Newrain, as executor confirmed to George Abercrombie of Tillybody, pursues Alexander Abercrombie of Skeith for 300 merks contained in his ticket, bearing, he had received that sum from the said George Ogilvie in name of Abercrombie of Tillybody. *Alleged, 1mo*, The ticket was null, wanting writer's name and witnesses. *Answered*, Offered to prove by his oath the subscription was his, and he had not repaid the money nor counted for it. THE LORDS repelled the defence, in respect of the answer. *Alleged, 2do*, The ticket was not binding, containing no obligation to repay, but only the naked receipt of the money, and so was a pure gratuity and donation ; for Tillybody being his near cousin, and unmarried, he was in use to give his near relations some small acknowledgments ; and Mr Ogilvie, now pursuer, being his factor and trustee, he took a receipt for instructing to Tillybody, that, according to his order, he had given the money ; and if there had been the least design of ex-