

DIVISION III.

Mutual Duties betwixt Husband and Wife.

SECT. I.

Husband bound to aliment and provide for his Wife.

1561. March 26. and Feb. 26.

BARBARA LOGAN against ROGER WOOD, and AGNES CRICHTON against
MR ALEXANDER ABERCROMBIE.

No 91.

IF ane man puttis away his wife out of his house and companie, for any crime or fault alledgit committit be hir, he aucht and sould sustene hir conforme to her estate, fra the day in the quhilk he put hir away, unto the day of the reconciliatioun, or then of the final sentence of divorce.

Fol. Dic. v. i. p. 392. Balfour, p. 95.

1579. March 23.

LADY LENOX against LORD LOVAT.

THE Lady Lenox, the spouse of Jamquhile the Lord Lovat, and daughter to the Earl of Athole, pursued her husband before the Commissaries of Edinburgh, for separation and divorcement, because of his inability and frigidity, so that he was not able to have carnal dealings with her; *et pendente lite coram commissariis*, she meaned her by supplication before the Lords, and desired her expenses to be modified to her in the mean time, and her sustentation off my Lord her husband. It was first *alleged*, that the Lords were not judges competent, because the principal cause of divorcement being intented before the Commissaries, the accessory of the expenses ought to be decreeted before the same Judges, *quia accessorium sequitur naturam principalis*. The whole allegiance was repelled by the Lords, because they had found them Judges in sundry causes. Then it was *alleged*, that the Lady should have no expenses, because she was the pursuer before the Commissaries, and my Lord offered to receive her as a wife, and adhere unto her; and offered him to prove the contrary of her summons, that he was potent and able, *et sic*

No 92.
During the dependence of a process of divorce for impotency, altho' the pursuit was at the wife's instance, and the husband offered to receive her home, the Lords found aliment due to her by her husband.