

No 110.

compassion is considerably weakened. By accepting of their offer of purchasing her husband's liferent on her disposing of part of the fee, she can obtain an immediate livelihood. The case of Lisk against her husband's creditors, was thought to have been erroneously decided; and an appeal was entered against it, but a compromise afterwards took place in consequence of what passed in the House of Peers, after the cause had been begun to be pleaded.

The Court, with only one dissenting voice, refused the desire of the petition.

A reclaiming petition was refused, (27th May 1794,) without answers.

For the Petitioner, *M. Ross, Fletcher.* Alt. *Tait.* Clerk, *Home.*

R. D.

Fol. Dic. p. 3. 289. Fac. Col. No 114. p. 253.

S E C T. III.

The Wife if maltreated may withdraw, and be entitled to a Separate Maintenance.

No 111.

1594. June 18.

HOWIESON *against* RAE.

HOWIESON having obtained a decret of adherence against Rae, his wife; and having charged her, under the pain of horning, to adhere, she suspended, *alleging*, that she durst not adhere *propter sævitiam mariti*. In respect whereof, he was ordained to find her caution to treat her lovingly, as became a husband to treat his wife, she making faith that she dreaded bodily harm.

Fol. Dic. v. 1. p. 394. Haddington, MS. No 413.

1697. June 8.

DUTCHESS of GORDON *against* The DUKE.

No 112.

What amounts to such maltreatment, as to entitle the wife to withdraw.

WHITELAW reported the bill of advocation, given in by the Dutchess of Gordon against the Duke, her husband, of a process of adherence, pursued by him against her, for deserting and withdrawing, with this design, that if she did not return to cohabit, he might from thenceforth be free of any aliment she could claim during the separation occasioned by herself. The *first* reason was, The Commissaries had committed iniquity, in sustaining process at the Duke's instance for adherence, and repelling her defence, founded on the 55th act 1573,