

„ plepointing, find Christian Ann Steuart, eldest daughter of the late Andrew
 „ Steuart, Esq. as his executrix, entitled to her mother's share of the moveable
 „ estate of her grandfather, Sir William Stirling, the same having belonged to
 „ her father *jure mariti*; and that she is entitled to complete her right thereto
 „ by confirmation, or otherwise, in her mother's name, if necessary; and re-
 „ mit to the Lord Ordinary to proceed accordingly.”

No. 6.

Lord Ordinary, *Glenlee*.Act. *David Monyhenny*.Alt. *David Douglas*.*Will. Wilson and James Dundas*, W. S. Agents.Clerk, *Scott*.

M.

*Fac. Coll. No. 21. p. 61.*1808. *March 5.* ISABELLA MAXWELL *against* ALEXANDER WALLACE.

No. 7.

ISABELLA MAXWELL brought an action of separation before the Commis-
 saries against her husband Alexander Wallace. In the course of this action
 she presented a petition to the Commissaries, praying them “to ordain Mr.
 “ Wallace to pay to her, or to her solicitor, the sum of £200 Sterling, or such
 “ other sum as might seem proper, towards interim aliment and defraying the
 “ expenses of this process.” This petition the Commissaries refused. On
 this she presented a bill of advocation to the Court of Session, which Lord
 Craig, Ordinary on the bills, appointed to be answered. The answers not
 being given in during three weeks, she presented a note to Lord Cullen, then
 Ordinary on the bills, praying for an immediate remit to the Commissaries to
 grant her the interim allowance she had demanded. His Lordship appointed
 the bill to be printed; and reported the case. It was pleaded for the pursuer,
 That she was ill used by her husband, and could not live with him, so that she
 required a separate aliment: That if she were defender in an action of divorce,
 she would have an interim allowance for that, and expenses of process; and
 it would be hard to deny it to her when she was pursuer in an action of separa-
 tion: That if this were refused, such actions could not be maintained by wives
 at all.

An interim
 separate al-
 lowance will
 not be given
 by the Court,
 to a wife who
 has only com-
 menced an
 action of se-
 paration.

The defender denied the ill usage; and stated, that he was willing to re-
 ceive her into his family, so that she had no need of separate aliment; and that
 it was contrary to the established rules of the Commissary Court, which had
 always been followed in such actions, to grant any interim allowance in such
 cases.

The Court thought the demand premature; and therefore remitted to the
 Ordinary to refuse the bill.

Lord Ordinary, *Craig*.*Joseph Gauvin*, W. S. Agent.

M.

Fac. Coll. No. 36. p. 126.