

but, for some supervenient cause, it becomes improper or impossible for the parties to live together: as in the case of intolerable ill temper, or adultery, in either of the parties. For the canon law, which the common law follows in this case, deems so highly and with such mysterious reverence of the nuptial tie, that it will not allow it to be unloosed for any cause whatsoever, that arises after the union is made. And this is said to be built on the divine revealed law; though that expressly assigns incontinence as a cause, and indeed the only cause, why a man may put away his wife and marry another<sup>e</sup>. The civil law, which is partly of pagan original, allows many causes of absolute divorce; and some of them pretty severe ones, (as if a wife goes to the theatre or the public games, without the knowledge and consent of the husband<sup>f</sup>) but among them adultery is the principal, and with reason named the first<sup>g</sup>. But with us in England adultery is only a cause of separation from bed and board<sup>h</sup>: for which the best reason that can be given, is, that if divorces were allowed to depend upon a matter within the power of either the parties, they would probably be extremely frequent; as was the case when divorces were allowed for canonical disabilities, on the mere confession of the parties<sup>i</sup>, which is now prohibited by the canons<sup>k</sup>. However, divorces *a vinculo matrimonii*, for adultery, have of late years been frequently granted by act of parliament.

IN case of divorce *a mensa et thoro*, the law allows alimony to the wife; which is that allowance, which is made to a woman for her support out of the husband's estate; being settled at the discretion of the ecclesiastical judge, on consideration of all the circumstances of the case. This is sometimes called her *estovers*; for which, if he refuses payment, there is (besides the ordinary process of excommunication) a writ at common law *de estoveriis habendis*, in order to recover it<sup>l</sup>. It is generally proportioned to

<sup>e</sup> Matt. xix. 9.

<sup>f</sup> Nov. 117.

<sup>g</sup> Cod. 5. 17. 8.

<sup>h</sup> Moor. 683.

<sup>i</sup> 2 Mod. 314.

<sup>k</sup> Can. 1603. c. 105.

<sup>l</sup> 1 Lev. 6.