

Lib. C. B. 2^{dly} From former practice and presidents I am Credibly
 p. 99 Informed Your Ex^{ncys} predecess^{rs} have allowed Seperate
 maintenance in the Court of Chancery in this province on
 application of the abused feme.

3^{dly} A failure of Iustice would otherwise be, because the
 wife as tis well knowne hath no remedy in the Co^{rs} of Co^mon
 Law and there are no Spirituall Courts nor Iudges of them
 here and therefore no suite could be here for Alimony and
 Admitting that there were Spirituall Courts and Iudges
 thereof here in the principall Case there is not any Divorce
 nor cause thereof without which the Iudges of the Spirituall
 Courts cann never allow Alymony i: Sidfⁿ 115. wherefore
 taking the Argument only a Necessitate & propter defect.
 Justitiæ, She may well sue in the Chancery as hath been
 allowed and Comonly practised in Case of such Nature and
 that as well as for Legacies i Sidfⁿ 119.

Lastly to Answer the forth Quer :

I allow that persons have been bayled on the returnes of
 habeas Corpus at Co^mon Law who were Comitted by the
 Lord Chancell^r for Contempts or by order of the King and
 Councill high Com^{rs} Iudges of the Ecclesiasticall Court or
 any other Courts in England but the reason thereof was
 either because the Returnes of such habeas Corpus were too
 Gen^l and uncertain as in the Case of Astwick Moores Rep^{ts}
 839 Vaughans Rep^{ts} Bushells Case 2 Int. 52: 53: Apsleys Case
 Moore 840, or the partys committing had no Iurisdiction of
 the Cause; but illegally comitted or such causes were prop-
 erly cognizable at co^mon Law as in S^r Anthony Ropers Case
 12: C: 46: 47: i Hughes, Ab: 447, 2 Bulstrodes Rep^{ts} 300. 301
 p. 100 Bradshaw and the high Comission Courts case 1 Hughs 447,
 but where the returne of a habeas Corpus is certaine and per-
 ticularly setts forth the cause of the Comittment and that the
 Court or partys that Comitted the prisoner had Iurisdiction
 of the Cause I never could find that they bayled him as in
 the Case of one W^m Allen prisoner in the fleet being brought
 to Court by hab^s Corpus and the Cause returned by the
 Keeper that he was Comitted by the Lord Chancellor for a
 Contempt in not pforming a Decree in the Court of Chan^{ry}
 made against him the Court thereon refused to deliver him
 Moores Rep^{ts} 840, and the Earle of Shaftsburys Case Comit-
 ted by the Lords in parliam^t to the Tower and thõ. the
 returne was Generally on his habeas Corpus for a Contempt
 to the house because the Court of K: B: had no Iurisdiction
 of the Cause he was remanded: i Mod, 114. one Maye was
 Comitted by the Iustices of the Quarter Sessions at Hartford
 for Saying if I cant have Iustice here ile Have it else where
 for which he was fined five pounds he obtained his habeas