

no Bishops Courts Settled His Ex^{ncy} the Governour as Keeper Lib. C. B.
of the great Seale might Decree the woman driven from her
husband propter Sævitiã reasonable Estovers p tempore, thô
with great Diference and respect to the L^d Diocess he has
not thought fitt to Intermeddle with any order of Divorce a
mensa There: Tothill cites Severall Decrees for Divorces p. 104
made in Chancery in Henry the 8ths time and Queen Elizabeth.
Inter Tyrrell & ux^r & al fol. 124. And Sheppards Epit^o As-
sures this is the only proper place for a woman being Turned
of by her husband to sue for Alymony & that it can be done
no where Elce phapps it may be objected that in this Case
the wife was not turned off by her husband who denies not
her returne yet if by his cruelty he has driven her from him,
I know not how driving cann amount to less then turning
his horse out of his pasture nay it is rather more.

And since I observe that appeales in Spiritual are made
from the Arch Bishop to the King in Supremâ Cur. Cancellar
I think these are Sufficient Inducements for his Ex^{ncys} Sentence
against Thomas Macnemara And should a Single Justice
even of the Degree of the Chief take upon him Solely to
Judge of the Iurisdiction and Decrees of the Court of Chan-
cery Who would ever think it worth their while to apply to
that Court to remitt the Rigour of the Comon Law or any
otherwise releive them, to no purpose. As to Keebles Rep^t
cited by M^r Smithson, I have not the book neither do I
know the Case but have good reason to think that his
Quotation of the Stat. 16 K: C: Chap. 10. is a presumption
very ill grounded and upon a very crooked opinion which
must needs spend it Self before the End be attained, for
that nothing in this case can be pretended within that
Statute.

The want of Courage as well as Integrity are certainly the
Deepest blemishes and Irreparable Defects in a Councillour
On the other hand and Ignorance weigh as heavy, and
certainly lead to all confusion and Sorrow at the last, but p. 105
where there is Prudence which my Lord Cook directs us to
find with the patient Nullum Numen abest.

Upon hearing whereof the board unanimously declared
they were Satisfied with his Ex^{ncys} proceedings and did thinke
the bayling of Thomas Macnemara by M^r Justice Smithson
to have been Extrajudiciall and illegall.

And thereupon his Ex^{ncy} and the board ordered the Cleark
of the Councill to write to Colonel Smithson that his health
permitting he should not faile to attend at the next Councill
in order to give them Satisfaction herein.