

thereon. (t) And for the same reason, in several states of our Union, there being no ecclesiastical court, the cognizance of such matters has been held to belong most properly to the Court of Chancery. (u)

In Maryland, there never was an ecclesiastical court, and therefore, the High Court of Chancery always had, even under the provincial government, entire jurisdiction of such cases of claims for alimony, or for separate maintenance out of the husband's estate, founded on his misconduct; (w) but this branch of the jurisdiction

(t) *Whorewood v. Whorewood*, 1 Cha. Ca. 250; *Oxenden v. Oxenden*, Gilb. Eq. Rep. 1; *Head v. Head*, 3 Atk. 550; *Anonymous*, 2 Show. 282, 1 Mad. Chan. 386, note.—(u) *Purcell v. Purcell*, 4 Hen. & Mun. 507; *Prather v. Prather*, 4 Desau. 33; *Rhame v. Rhame*, 1 McCord. 205.—(w) *Galwith v. Galwith*, 4 H. & McH. 477; *Hewitt v. Hewitt*, 1 Bland, 101.

MACNAMARA'S CASE.—This case was brought before the court by a petition, filed on the 13th of October, 1707, by Margaret Macnamara against Thomas Macnamara, her husband. It stated, that she having been before constrained to seek redress from the Chancellor against the cruel usage of her husband, was then, once more, compelled by his continued severities, daily manifested to the world, not only by threats, sufficient from a man of his ungovernable temper to frighten a poor helpless woman out of her life, but also by merciless stripes, the most scurrilous language unbecoming a man, by a tyrannical domineering carriage, too severe to be used even to slaves, and by a beastly lust, she blushed to name it, in the gratification of which, his indifference in the use of white or black, clean or foul, was such, that nature's law, self-preservation, dictated the danger of any commerce with him. That there was no safety for her under the same roof with him, he having frequently, in his mad raptures, exclaimed against himself for not making away with her. She therefore humbly implored protection from his barbarous cruelties. And prayed that she might be permitted to live separate from him; that he might be obliged to allow her such a reasonable maintenance, as, upon consideration of his circumstances, might be thought proportionable thereto; that he might be required to give good security for the performance of what should be ordered, so that she and her poor children might not be left destitute, and that he might be ordered to deliver her clothes and other little necessaries to her, she being so stripped, that she had not wherewith to shift herself.

In this case, John Seymour, the Governor and Chancellor, associated to himself Major-General John Hammond, Judge of the Court of Vice-Admiralty, and one of the council of the Province. Whereupon, it was *Ordered*, that Thomas Macnamara be forthwith summoned to appear. And the officer having made return, that he had gone out of town, it was *Ordered*, that he should appear on the 16th instant, to answer the petition, and he appeared accordingly, but refused to answer.

16th October, 1707.—SEYMOUR, Chancellor.—The petition being read to Thomas Macnamara, he was ordered to answer thereunto, which he obstinately refused to do, offering a plea, *ore tenus*, to the Chancellor's jurisdiction of the matter, and pretending to support it by the practice of the spiritual courts in England, which in the infancy, low circumstances, and present constitution of this province, prevent us from being able to pursue here for want of such courts or maintenance for the proper officers of them. Wherefore, the Chancellor being convinced, not only by undeniable testimonies, but even by his own knowledge of the inhumanity and barbarity