

spouses, to Robert Blyth, was *ab initio* void and null *quoad* the wife, as being granted by her during the coverture."

And, 25th June 1777, the Lords refused a reclaiming petition, without answers, and adhered.

The petition went chiefly on the doctrine laid down in the late treatise by Lord Kames, p. 2; and that any ground of reduction or exception, on account of the coverture, was cut off by the negative prescription,—the bond being much older than 40 years since granted, being dated 22d November 1693, and payable at Martinmas 1694.

1758. July 22. LADY CADBOLL *against* Her HUSBAND.

THE Lords, in the case Lady Cadboll and her husband, found, that, if a husband does not cohabit with his wife, he is bound to aliment her. But, when he again cohabits with her, the separate aliment must cease. That he may prohibit her nearest relations from visiting in his family.

They fixed the *quantum* of the aliment at the provision in the contract of marriage.

HUNTING IN INCLOSURES.

1778. March 3. The MARQUIS of TWEEDDALE *against* JOHN NISBET.

THE Marquis of Tweeddale brought an action against John Nisbet, Esq. and Others, for breaking into his inclosures, destroying his woods, breaking down his fences, &c., by hunting and pursuing game thereon with hounds and horses. Concluding for damages, and to have it declared, that no person has a right to hunt in his inclosures without his leave.

The defenders did not deny the fact; but pleaded, that by law and custom they have a right to follow the chace into inclosed grounds upon refunding any small damage they may occasion; and this they were ready to do.

9th February 1774, the Lord Auchinleck, Ordinary, pronounced this interlocutor:—"In respect, it is alleged, and not denied, that the occasion of the defenders being in the pursuer's inclosures was in actual pursuit of a fox raised without the inclosures, assoilyies, and finds expenses due."

The pursuer represented against this interlocutor, and prayed for a proof of his damages: which the Ordinary, 16th December 1775, allowed. But, in the October preceding, Mr Nisbet having reiterated his offence, *pendente processu*, and as was alleged, with aggravated circumstances, the Marquis applied to the Ordinary for an interdict, which his Lordship, 16th December 1775, re-