

There seems to have been some difficulty in England upon this subject; because it is said, of this claim's being founded upon the misconduct of the husband, and of the Ecclesiastical Courts having the exclusive cognizance of all matrimonial cases; and as the kind of separate maintenance called alimony is never allowed but as a consequence of a divorce *a mensa et thoro*, that therefore, a Court of equity could not take cognizance of a claim for separate maintenance, founded only on the misconduct of the husband, until after a divorce *a mensa et thoro* had been granted by the Ecclesiastical Court. The difficulty of the English Court of equity, it is evident, arises from the claim for a separate maintenance of this kind, involving the question of divorce, of which it has no jurisdiction. But it is admitted on all hands, that under such circumstances, the wife ought to be relieved, and should be able to obtain relief somewhere.

In England, during the short existence of the Republic, after the decapitation of the first king Charles, the Ecclesiastical Courts were abolished; and, in consequence thereof, the entire jurisdiction in all cases of alimony and of separate maintenance devolved, as a matter of course and necessity, upon the Court of Chancery, as the only tribunal fitted and competent to decide thereon. *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*. 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. *Purcell v. Purcell*, 4 *Hen. & Mun.* 507; *Prather v. Prather*, 4 *Desau.* 33; *Rhame v. Rhame*, 1 *McCord*, 205.

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, *Galwith v. Galwith*, 4 *H. & McH.* 477; *Hewitt v. Hewitt*, 1 *Bland*, 101; (*e*) but this branch of the jurisdic-

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(*e*) 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, in the gratification of which, his indifferency 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