

DIVORCE—*Continued.*

- condition, with respect to each other, which the law would have empowered the court to do, by granting a divorce, *a mensa et thoro*, and, therefore, such a decree is unnecessary, and perhaps improper. *Ib.*
6. There being no allegation or proof that any circumstance had transpired, since the execution of the deed, rendering it necessary that the relations of the parties, as established by that instrument, should be changed, the court refused to decree a divorce, *a vinculo*, as the effect of such a decree, upon the rights secured by the deed, might occasion injurious consequences. *Ib.*
  7. Upon an application, by the wife, for a divorce *a mensa et thoro*, under the 3d section of the act of 1841, ch. 262, upon the charge of cruelty of treatment, it will not be sufficient for her to show mere petulance, and rudeness, and sallies of passion on the part of the husband, but there must be a series of acts of personal violence, or danger of life, limb, or health, to justify a decree of separation. *Daiger vs. Daiger*, 335.
  8. Great caution and discrimination ought to be used upon this subject, and even if acts of personal violence are shown, it is proper for the court to consider whether they were without cause, or for trivial causes, or the result of provoking language on the part of the wife, pushing the patience of the husband to extremity. *Ib.*
  9. To support the charge of "cruelty of treatment," under the 3d section of the act of 1841, ch. 262, it is not sufficient to show acts of mere petulance and rudeness, and sallies of passion, but there must be a series of acts of personal violence, or danger of life, limb, or health, to justify the court in separating the parties. *Coles vs. Coles*, 341.
  10. The rule prescribed by the common law, and the law of England, is applicable to this statute, and the term "*cruelty*," used in it, must have the same interpretation as that given by the ecclesiastical courts. *Ib.*
  11. The marriage relation is not to be dissolved upon slight grounds, nor will parties be relieved from the duties and responsibilities it imposes, merely because there may be some want of congeniality in their tempers and dispositions. *Ib.*
  12. Public policy and morality, alike condemn these partial dissolutions of the matrimonial union, and to justify the court in decreeing them, reasons of a grave and weighty nature should exist; and in this state, the causes which should lead to such separation, ought to be the more urgent and imperative, from the fact, that our statute, unlike that of other states, compels the court, if it interferes at all, to separate the parties permanently, and but for a limited time. *Ib.*
  13. The terms "cruelty of treatment," in the 3d section of the act of 1841, ch. 262, are to be construed as having the same meaning as that attributed to them by the ecclesiastical courts in England, and which has been given to equivalent language in the New York statute. *Tayman vs. Tayman*, 393.
  14. Upon granting a divorce, *a mensa et thoro*, the act of 1841, ch. 262, re-