

the Court cannot under the general prayer grant relief, which is not warranted by the allegations of the bill. The limitation upon the power of the Court to grant relief under the general prayer, is, that it must be agreeable to the case made by the bill, and not be different from or inconsistent with it, 6 *H. & J.*, 29. The extent and character of the relief which may be granted under the general prayer, depends upon the facts charged in the bill, 6 *G. & J.*, 152. "If," say the Court of Appeals, in *Gibson vs. M' Cormick*, 10 *G. & J.*, 108, "the complainant cannot obtain the specific relief for which he prays, he may obtain any relief consistent therewith, warranted by the allegations of his bill, provided it contains a prayer for general relief."

The averments of this bill being excepted to, according to the provisions of the 5th section of the Act of 1882, ch. 302, relief cannot be granted upon the ground, that the *proof* in the cause (if there be such proof) entitles the complainant to the relief which the Court is now called upon to grant. The cause stands, and the title of the complainant to the relief she now asks for depends, upon the principles of Chancery pleading as they existed prior to the passage of the Act of Assembly; and according to these, as is too clear for controversy, the plaintiff, when she claims under the general prayer, must show allegations in her bill which will entitle her to it. But, as is equally clear, the relief she now asks under the general prayer is inconsistent alike with the averments of her bill and the specific relief therein prayed.

It is very plain, then, as I think, that in the existing condition of the pleadings, the complainant could not be permitted to charge the defendant Davis, as the executor of Solomon Betts, with this note of Lloyd N. Rogers, treating it as an asset in his hands for the payment of the pecuniary legacies bequeathed by the testator. And in this state of the case it becomes important to inquire, whether the Court would have the power, upon application, to order an amendment of the bill, so as to present the question for adjudication in this new aspect.