

the wife. There being no decision upon this title, it is not necessary to state it.

The answer of the trustees admits the allegations of the bill, and submits to such decree in the premises as may be right.

A commission was then issued, and proof taken, fully sustaining the allegations of the bill as to the cruel treatment by the defendant of his wife, prior to the year 1847, at which time, and in consequence of such cruel treatment, they were separated, but afterwards, becoming reconciled, they lived together again. Since that time there is no proof sustaining the charges in the bill. The cause was submitted upon bill, answer, and proofs, and argued by counsel for the respective parties. The Chancellor dismissed the bill, and, accompanying his decree of dismissal, delivered the following opinion :]

THE CHANCELLOR :

This is an application founded on the third section of the Act of 1841, ch. 262, which authorizes the Court to separate the parties from bed and board, for "cruelty of treatment;" and, upon a careful examination of the evidence, I am of opinion that the conduct of the husband prior to the first separation in 1847 would have entitled the complainant to relief to that extent. The remarks which fell from Mr. Chancellor Kent, in reference to the meaning of those terms as employed in the New York statute, show, I think, that the treatment which the complainant received at the hands of her husband, prior to 1847, amounted to that species of cruelty which entitled the wife to the interposition of the Court. He said, in *Barrere vs. Barrere*, 4 *Johns. Ch. Rep.*, 189, that "mere petulance and rudeness, and sallies of passion, may not be sufficient;" 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. The proof relating to the conduct of the husband in this case, prior to 1847, establishes the charge of personal violence in repeated instances; and though it may have been, and probably was, the result of the too fre-