

is often difficult to determine. It seems however, to be admitted, that personal injury, and words of menace, importing the danger of

him and a woman in the neighborhood, who had bantered him for being intimate with a certain woman since dead, the plaintiff was thereupon seized with so implacable a jealousy and hatred against him, that notwithstanding his many asseverations of his innocency, she treated him with the most opprobrious and scurrilous names, and continued to do so for many months.—[*Govane v. Govane*, 1 *H. and McH.* 346.] That however perverse and turbulent his temper may be, which he does not admit, it cannot be more so than her's with regard to him and all about her; that whatever weakness of temper he may have, he has nothing of rigour, severity, or cruelty in his nature, and never treated her with any vile or abusive language, but when she was most flagrantly the first aggressor, or laid hands on her but on just provocation and absolute necessity, when she committed the first assault, of which, were it proper, he could produce such instances as would astonish this court and all mankind. That in the summer of 1749, upon any difference happening between them, she frequently in the night left his house and went to that of his overseer's, or to that of his overseer's father's, where she was kept, and spirited up to take the most violent steps to the dishonour of herself as well as of this defendant. That in September of the same year, she swore the peace against him; in consequence of which he was made to enter into a recognizance with sureties, from which he was afterwards discharged, and by the mediation of friends and mutual promises of reconciliation, she returned to live with him; that afterwards, when he was extremely sick and unable to help himself, she used him with the utmost cruelty, and expressed a hope that his then sickness would carry him off, and wished he might be in hell with his whores. That afterwards he was informed, and from various circumstances had strong reason to suspect and believe, that she had some improper and illicit intercourse with his overseer; upon which he mildly remonstrated with her, and proposed to her that they should go and reside for a time in Rhode Island, until the scandal should die away, which she refused to do. Whereupon the next day he discharged his overseer, when she being present, without being spoken to or receiving the slightest provocation, walked off to the house of the overseer's father, where she remained about ten days, and then went to the house of her own father, where she has since chiefly resided. He denies that he ever threatened her with a drawn sword, or any other weapon, or obliged her to leave his house; and also denies that he ever intended, or does now intend, to leave this province. He admits that he had warned several storekeepers not to trust her, and will not pay any thing for her while she continues to live separate from him; but he proposes to receive her again, and declares his readiness now to be reconciled to her, and again to cohabit with her, &c.

To this answer the plaintiff put in a general replication, upon which a commission was issued, and a great many depositions were taken and returned.

28th July, 1752.—*TASKER, Chancellor.*—This case standing ready and coming on to be heard accordingly, in presence of counsel on both sides, and the whole proceedings being read, appeared to be as before recited and set forth; whereupon, and upon reading the bill, answer, and depositions, taken and published in this cause, and also the account of Thomas Homewood, deceased, late husband of the complainant, his estate, as settled in the Prerogative court of this province, by which it appears that the complainant's dividend of her said late husband's personal estate, was £6 9s. 8d. gold and silver currency, and £692 19s. 2d. current money of Maryland; and upon debate of the matter, and hearing what could be alleged on both sides, this court doth accordingly *Decree*, that the defendant pay unto the complainant the sum of £163 11s. current money, which is in proportion to £92 current money