

by proof, would entitle the complainant to a divorce, *a mensa et thoro* does not pray for that relief, but simply that the property in question, sundry negroes, may be placed in the hands of a receiver, and that complainant, from the product of their labor, may have a reasonable allowance for her maintenance and support; or that they may be divided, and she have one-third thereof, whilst she and her husband, Levin Dunning, are living apart. And the injunction which was granted was asked for to prevent a sale or other disposition of the property before the case could be heard.

Though under the prayer for general relief, the plaintiff may have any relief consistent with the specific relief prayed, which may be warranted by the allegations of the bill, it may, I think, be well doubted whether upon this bill a divorce, *a mensa et thoro*, could be granted. The specific relief prayed for, is a provision for the support of the wife during the period that she and her husband may be separated, either by awarding her a reasonable proportion of the hire of the negroes, or by giving her one-third of them, to be held during the separation. A separate maintenance or alimony, so long as the separation may continue, is the whole object of this bill. And so far from asking the aid of the Court to make that separation permanent, the door would seem to be designedly left open for reconciliation, and the restoration of the conjugal relations of the parties. Alimony, under the Act of 1841, ch. 262, which conferred for the first time upon this Court jurisdiction in divorce cases, is but an incident to the exercise of the power granted by that Act to divorce the parties. The language of the Act is, after authorizing the Court to grant either absolute or qualified divorces, according to the nature of the grounds stated and proved, "and in all cases where a divorce is decreed, the Court passing the same shall have full power to grant alimony to the wife," &c. And I take it to be very clear that proceeding upon that Act and its several supplements, alimony cannot be awarded to the wife, except as a consequence of the exercise of the greater power to pass a sentence of divorce.

This Act, as I conceive, is in conformity with what I under-