

ALIMONY PEDENTE LITE—*Continued.*

who has been abandoned, or is living apart from her husband, temporary alimony, and the means of prosecuting or defending a suit for divorce, and this without any inquiry whatever into the merits of the case. *Coles vs. Coles*, 341.

4. Though its jurisdiction has been denied by demurrer or otherwise, the court is not, on that account, at liberty to withhold from the wife the means of living in the interval, or perhaps of prosecuting her suit. *Ib.*
5. But if the wife has, under her own control, the means of carrying on the suit, and maintaining herself pending the litigation, the reason of the rule fails, and the rule itself fails also. *Ib.*
6. Where the application for temporary alimony, and the means to prosecute the suit, was delayed until the cause was nearly ready for final hearing on the merits, and it being proved that the wife had received, since the commencement of the suit, the sum of \$300, in derogation of the marital rights of the husband, which he consented she should retain, and apply to the expenses of the suit, the court refused to order the husband to pay any thing further to enable his wife to prosecute her suit, but passed an order granting her alimony, *pendente lite*. *Ib.*
7. There can be no doubt of the power of this court, pending a bill for a divorce by a wife, to compel the husband to pay her temporary alimony, and also to furnish her with the means of defraying the expenses of the suit, and that upon such an application by the wife, living apart from her husband, and without means, the merits will not be looked into, the allowance being made almost, if not entirely, as a matter of course. *Tayman vs. Tayman*, 393.
8. If the wife be living with her husband, an allowance of alimony, *pendente lite*, would be unnecessary and improper, but it does not follow, that under such circumstances, upon an application by her, the husband would not be made to supply her with money to fee counsel, and defray the expense of the suit. *Ib.*
9. The application must be made by the wife and not by the counsel in his own name. *Ib.*

See *NE EXECUT, WRIT OF*, 1, 3, 4.

DIVORCE.

ALLOWANCE OF CREDITS.

See *ASSIGNMENT, &c.*, 8.

ANNUITY.

1. Where the premises of a deed (which word includes every thing which precedes the *habendum*) make it clear that the intention was to secure the plaintiff an annuity of \$120, during the natural life of M. A., the court will construe the deed so as to effectuate this intention, though the *habendum* contain no words of limitation defining the duration of the estate. *Peyton vs. Ayres et al.*, 64.
2. The method, in this state, of ascertaining the present value of an annuity for life, as adopted by the Court of Appeals, is to apply, by analogy, the Chancery rule, for fixing the allowance to a woman, in lieu of dower in lands, sold under a decree. *Ib.*