

MORTGAGE, MORTGAGOR AND MORTGAGEE—*Continued.*

14. The consideration of the mortgage which the complainants sought to enforce, was a forfeit which the mortgagor agreed to pay them in the event of his failing or neglecting to appoint the complainants his agents, as provided in a certain agreement, HELD—

That this mortgage could not be enforced by this court—the rule being a universal one, that courts of equity will not lend their aid to enforce a penalty, or forfeiture, but will leave the parties to their remedy at law. *McKim vs. The White Hall Co.*, 510.

See DOWER, 5, 6. EQUITABLE LIEN, &C. RECORDING OF PRACTICE IN CHANCERY, 58, 59. PARTIES TO SUITS, 3, 4, 5. JURISDICTION, 16. LIMITATION OF ACTIONS, 1, 2. EXECUTOR, &C., 3.

MUTUALITY.

See SPECIFIC PERFORMANCE, 4, 5, 6.

NE EXEAT, WRIT OF.

1. Upon a bill for a divorce, *a mensa*, and alimony, Baltimore County Court decided that the writ of *ne exeat* might be granted upon the affidavit of the wife alone; that her husband, the defendant, intended to leave the state and depart beyond the jurisdiction of the court. *Bayly vs. Bayly*, 326.
2. The power of the wife to make this affidavit was at one time denied, and there can be no doubt that in the cases in which she is permitted to make it against her husband; her affidavit may be corroborated by the oaths of other persons deposing to the acts and declarations of the husband, manifesting his purpose to remove beyond the jurisdiction of the court. *Ib.*
3. It is well settled in England, that the Court of Chancery will not issue the writ of *ne exeat*, in cases of alimony, unless there has been a decree for alimony in the spiritual courts; nor will it be granted, pending an appeal from such decree by the husband, nor for alimony, *pendente lite*, nor for any other sum than that actually due for alimony and costs; but in New York, the writ has been granted upon the petition of the wife, *pendente lite*. *Ib.*
4. In this case where the writ issued of *ne exeat*, upon the naked unsupported oath of the complainant, before a decree had passed establishing her right to alimony, and where such right was disputed by strong averments of the answer, and the allegation of an intention to remove from the state was positively denied by the defendant, the Chancellor granted a motion to discharge the writ upon the case presented by the bill and answer. *Ib.*

NEGROES AND SLAVES.

1. The children of a female slave, born during the continuance of the life estate, are the property of the legatee for life. *Wootten vs. Burch*, 191.

See LAPSE OF TIME, 2.

NOTICE.

1. The statutes of frauds does not apply to a case where a complainant seeks to compel a defendant to pay his own debt to the party to whom