

pendent upon her own unaided exertions for her support. The circumstances of this case are materially different. Here the wife is shown to have received three hundred dollars in derogation of the marital rights of the husband, which he consents she shall retain, and apply to the expenses of the suit. And it is, moreover, shown that she is living with her mother, and is, therefore, not thrown entirely upon her own exertions for support. That case and this differs also in the time when the application for alimony and means to carry on the suit, is made. Here, the cause has been prosecuted almost to a final hearing—there, the controversy had but just commenced, and there was every prospect of a long and expensive litigation.

Under all the circumstances, I am of opinion that I ought not, at this time, to go so far as to order the husband to pay any thing to enable his wife to carry on the suit, and consequently, that part of the prayer of this petition must be rejected. The application for alimony, *pendente lite*, stands upon different grounds. I am not satisfied that this petitioner has the means of supporting, with comfort, herself and her child, even with such assistance as she may receive from her mother, and, therefore, not looking at all to the merits, I shall pass an order making some allowance for that purpose. In answer to that part of the petition which technically is called the allegation of faculties, the defendant has spoken of his embarrassed circumstances, and I do not feel myself at liberty to overlook his answer in this respect, in fixing the amount of the allowance.

It is therefore ordered, this 17th day of February, in the year 1851, that the defendant pay to the plaintiff the sum of one hundred and fifty dollars a year, in quarterly payments, to be computed from the first day of January last, and that this allowance is to continue until further order, and to be subject to variation, as future circumstances may require: and it is further ordered, that so much of said petition as prays for means wherewith to defray the expense of prosecuting the suit, be disallowed, with a reservation of power in the court to pass such other order in this respect, as the exigencies of the case may hereafter require.