

effect of defeating her suit altogether, before the usual opportunity has been afforded of developing the full merits of the case; for if it be true, and in the absence of proof to the contrary, it must be assumed to be true, that she has no means of living, or of defraying the expenses of the suit, and if the court, upon a preliminary proceeding like the present, and before she is furnished with the means of procuring the attendance of witnesses, undertake to investigate, and decide upon the merits of the case, it is obvious that very few suits by married women against their husbands, can ever be prosecuted successfully. The application presupposes, and is founded upon the allegation, that the wife is destitute of the pecuniary means of carrying on her suit, and, therefore, at that stage of the cause, to require her to show merits, or to engage in a contest with her husband, in regard to the merits, would expose her to almost inevitable defeat, not only in the particular application, but at the final hearing, for which, if her prayer for money to conduct the suit fails, she would be wholly unprepared.

The authorities, which have been collected with great diligence, by the counsel engaged in the cause, fully support these views, and show, that in suits, instituted either by the husband or the wife, the latter is a privileged suitor, as to costs and alimony. *Shelford on Marriage and Divorce*, 533, *et seq.*

It is believed, that no case can be found, in which the wife, living separate from her husband, and without an income competent to her support, and the maintenance of the suit, has been denied temporary alimony, and an allowance to enable her to defend herself, or prosecute her suit against her husband. In *Wright vs. Wright*, 1 *Edwards*, 62, the vice chancellor said, "an allowance to a wife of alimony, and money to carry on a suit, is almost a matter of course;" that "in a suit, by a husband against a wife, for adultery, she is entitled to the means of making her defence," and in that case, the vice chancellor refused to consider affidavits, tending to criminate the wife, saying, "he would not go into the merits at that stage of the cause," and in *Smith vs. Smith*, *same book*, 253, temporary ali-