

ble her to carry on the suit, and, therefore, as she already has it in her possession, I do not see the propriety of calling upon him for an additional sum.

She has now in her hands, or at all events, received in March, 1850, three hundred dollars, which by the marriage, devolved upon the husband, and which he expresses his willingness she may employ in conducting this suit. It appears to me, that if the husband had collected this money, as, at law, he unquestionably was entitled to do, the court would not have required him to pay more than that sum to enable her to defray the expenses of this cause, and as he forebore to do this, and suffered her to receive and retain it, it would appear to be entirely proper not to coerce him further at this time. The cause, if an opinion may be formed from the stage it has now reached, will be brought to a conclusion upon its merits, in a short time, but, if it should not, and a proper case should be presented hereafter, it will be in the power of the court to make such future order with respect to costs, as the exigencies of the case may require. Nothing more is now intended to be decided, than that in the present condition of this controversy, and giving due weight to the time when the application for alimony, *pendente lite*, and for money to carry on the suit, is made, and to the probabilities of a speedy and inexpensive litigation from this period to the end of the suit, there does not appear to be any necessity for compelling the husband to make advances for that purpose.

The case of *Daiger vs. Daiger*, has been referred to by the counsel for the petitioner, as an authority in support of both branches of the present application. But it will be found upon examining the opinion in that case, that the order was passed upon the presumption that the wife had no means of living, or of defraying the expenses of the suit, such being the legal presumption in the absence of proof to the contrary. There was, to be sure, some evidence in that case, that when she left her husband's home, she removed several articles of furniture, but there was nothing to show that she had any pecuniary means of prosecuting the suit, and it appeared that she was entirely de-