

struction of the act. Its language is, "that in all equity suits now depending, or hereafter to be commenced, or instituted, in either of the county courts of the sixth judicial district," the judges, or any one judge, may order the bill, &c., to be transmitted to the Court of Chancery upon suggestion and affidavit, &c. The present is an equity suit, commenced in one of the courts of the sixth judicial district, in virtue of the act of 1841, ch. 262, which conferred upon the Chancellor, and the county courts, as courts of equity, jurisdiction over the subject of divorce, and is, therefore, within the terms of the act of 1824.

It would seem to be settled in England, that the Court of Chancery will not issue the writ of *ne exeat regno*, in cases of alimony, unless there has been an actual decree for alimony by the spiritual courts. That it will not be granted, even where there has been such decree pending an appeal from it by the husband, nor for *interim* alimony, granted *pendente lite*, before a decree, nor for any other sum than that which is actually due for the alimony and costs. *Daniel's Ch. Pr.*, 1926, 1927; 2 *Story's Com. on Equity*, sections 1471, 1472. In New York, however, Mr. Chancellor Kent, in *Denton vs. Denton*, 1 *Johns. Ch. Rp.*, 364 and 441, did grant the writ upon the petition of the wife *pendente lite*. It is possible that the difference in regard to the stage of the cause at which this remedy will be granted in England and in New York, arises from the fact, that in New York, the Court of Chancery has jurisdiction over the question of divorce and alimony, which in England belongs to the ecclesiastical courts, the Court of Chancery there only coming to its aid, to prevent its decree from being defeated, which the former court might be unable to do.

In the case now under consideration, no decree for alimony has been passed, and, indeed, the title to any such decree is strongly contested by the answer in averments and statements responsive to the allegations of the bill. There is, moreover, a wide difference between the statements in the bill and answer with reference to the value of the defendant's estate, the bill alleging him to be worth fifteen thousand dollars, whilst in his answer, he says he is not worth five hundred dollars. The