

EVANS v. EVANS—BRITTON, J.—FEB. 25.

Husband and Wife—Alimony—Evidence—Finding of Fact of Trial Judge—Dismissal of Action—Rule 388—Costs—Disbursements.]—Action for alimony, tried without a jury at Cayuga. The parties were married on the 1st January, 1896, and had nine children. The plaintiff had been, since October, 1914, living apart from the defendant; that separation was the third in 20 years. The causes of it, according to the plaintiff, were cruelty on the part of the defendant, assault, and accusations of infidelity. The plaintiff also alleged that the defendant drove her away from his home. Upon the whole evidence, the learned Judge was of opinion that the plaintiff was not entitled to recover; and he dismissed the action. Pursuant to Rule 388, the defendant must pay the disbursements actually and properly made by the plaintiff's solicitor. W. E. Kelly, K.C., for the plaintiff. G. Lynch-Staunton, K.C., for the defendant.

JARVIS v. KEITH—LATCHFORD, J., IN CHAMBERS—FEB. 26.

Appeal—Leave to Appeal from Order of Judge in Chambers—Rule 507—Limitation of Discovery.]—Motion by the plaintiff for leave to appeal to a Divisional Court of the Appellate Division from the order of the Chancellor in Chambers, ante 138, allowing an appeal by the defendant A. Keith from an order of the Master in Chambers requiring the defendant to file a better affidavit on production of documents and to attend for further examination for discovery, to the extent that until the initial matters in controversy—the election or non-election of the plaintiff to renew a lease—should be determined, no better affidavit on production or fuller disclosure upon examination should be required of that defendant. LATCHFORD, J., referred to Rule 507, and said that he had not been referred to nor had he found any conflicting decisions by Judges upon the matter involved in the proposed appeal; and there did not appear to be good reason for doubting the correctness of the judgment appealed from. The proposed appeal would, indeed, involve matters of such importance that, if the granting of the leave sought were permissible on that ground alone, he would be disposed to accord it; but that ground warrants the granting of leave only in a case where there appears, in addition, "good reason to doubt the correctness of the judgment appealed from." Motion refused, with costs to the defendant A. Keith in any event of the action. E. D. Armour, K.C., for the plaintiff. H. S. White, for the defendant A. Keith.