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## NOTES

**ALIMONY PENDENTE LITE AND COUNSEL FEES IN ANNULMENT PROCEEDINGS.**—In the recent case of *Farnham v. Farnham* (N. Y. Ct. of App. 1919) 62 N. Y. L. J. 507, interested relatives sought, after the death of an alleged lunatic, to have his marriage annulled. The Court denied an application of the supposed wife for the payment of alimony *pendente lite* and counsel fees.<sup>1</sup> One of the grounds given for the decision was that since the granting of alimony *pendente lite* and counsel fees in matrimonial cases is based upon "the existence of the relation of husband and wife" and the consequent obligation<sup>2</sup> of the husband

<sup>1</sup>As to the counsel fees, two judges dissented. It should be noted that the funds from which the payment was sought were not part of the estate of the alleged husband, but funds held in trust, for the plaintiffs if the marriage were annulled, but for the defendant's infant son if the marriage were held valid.

<sup>2</sup>This so-called "obligation to support" turns out upon analysis to consist of a legal *power* on the part of the wife, by obtaining necessaries to create a *duty* on the part of the husband to pay the value of the necessaries