

*Held*, the damages, if any, should be for the result of an ordinary cold. If the plaintiff contracted a cold in February, 1892, the defendants would only be liable for the direct and immediate results of that cold. If, after taking such a cold, a man should go on and contract other colds and should continue to go on so that the results would be a great loss to him, the defendants would not be liable to the full extent of that loss, and if plaintiff was in such a state of health that he could not travel without taking cold, the defendants are not liable.

Verdict for defendants.

Quigley, Q.C., and D. Mullin, for plaintiff.

H. H. McLean, for defendants.

## DIVORCE COURT.

VAN WART, J.]

CURRIE v. CURRIE.

[Nov. 21, 1896.]

### *Alimony pendente lite—Jurisdiction—Amendment.*

The plaintiff denied the right of the defendant to either suit-money or alimony pendente lite, on the ground that the reasons for formerly granting such allowances no longer exist, owing to the passing of 58 Vict., c. 24, and that the plaintiff is not in a position to do more than support himself and child.

VAN WART, J.—I do not know of any case since the Court of Divorce and Matrimonial Causes was established in this province, in which the right of the wife to alimony pendente lite or suit-money has been disputed. The question seems to have been simply as to the amount to be allowed.

The Court was established by Act 23 Vict., c. 27, in substitution for the "Court of Governor-in-Council," established by 31 Geo. III., c. 5. Section 10 of the first named Act provides that: "The practice and proceedings of the said court shall be conformable as near as may be to the practice of the Ecclesiastical Court in England prior to the Act of Parliament made and passed in 1857, intituled 'An Act to amend the law relating to Divorce and Matrimonial Causes in England,' subject, however, to the provisions of this Act, and the existing rules, orders and practice as now established in the Court of Governor and Council in this province." This section is substantially re-enacted by Con. Stat., c. 50, s. 3, and in the law now existing in this province.

Then what was the practice in proceedings for divorce in the Ecclesiastical Court in reference to suit-money and alimony pendente lite prior to 1857, at which date the Ecclesiastical Court ceased to have jurisdiction in divorce matters?

In *Rice v. Shepherd*, 12 C.B. N.S., 332, Erle, C.J., says the wife pledges her husband's credit at the beginning of the suit, and I see nothing in the practice of the Divorce Court to take away the wife's common law right. The