

is some declared intention of Legislature, clear and unequivocal, or unless there are some circumstances rendering it inevitable that we are to take the other view, we are to presume that an Act is prospective and not retrospective." apart from that principle, it is clear from the Act itself that it is prospective. It does not purport to affect any subdivision already made or to invalidate any plans or transactions made before it came into force.

The extreme inconvenience of any other finding is evidenced by the provisions of sec. 5 which invalidates a sale according to the plan.

The action therefore fails; and I think the city should pay the costs not only of the defendant but of the company.

MASTER IN CHAMBERS.

APRIL 11TH, 1913.

McNAIR v. McNAIR.

4 O. W. N. 1093.

*Husband and Wife—Alimony—Interim Order—Penniless Defendant
—Order Refused.*

MASTER-IN-CHAMBERS refused to make an order for interim alimony against a penniless defendant resident out of the jurisdiction.

Motion for interim alimony and disbursements.

A. J. Russell Snow, for the motion.

R. McKay, K.C., contra.

CARTWRIGHT, K.C., MASTER:—The plaintiff makes affidavit that defendant once said he was worth \$90,000, but no particulars are given nor any specific asset mentioned. Defendant is now at Reno in Nevada where he is engaged in procuring a divorce. His affidavit says he is wholly without means and without employment and is living on loans from his friends. Though daily seeking employment he is unable to obtain any.

Under these circumstances I do not think the case differs from *Pherrill v. Pherrill*, 6 O. L. R. 642. I still think as I said there: "It would be useless to make an order against a man who has no property on which it could operate and where there is no evidence as to his earning power."