

HON. MR. JUSTICE RIDDELL.

OCTOBER 12TH, 1912.

CHAMBERS.

## PARISH v. PARISH.

4 O. W. N. 105.

*Husband and Wife — Alimony — Interim — Arrears — Date of Commencement.*

RIDDELL, J., *held*, that where a writ of summons in an alimony action properly endorsed with a claim for interim alimony was served on April 20th, but the motion for interim alimony was not launched until September 21st, the delay did not preclude plaintiff from receiving interim alimony, but the same should only run from the date of the order granting same, and not from the date of service of the writ or statement of claim.

*Karch v. Karch*, 21 O. W. R. 833,

*Howe v. Howe*, 3 Ch. Ch. 494, and

*Thompson v. Thompson*, 9 P. R. 526, followed.

Order of Local Judge Elgin Co. varied.

No costs of appeal.

An appeal from an order of the local Judge for the county of Elgin, directing the defendant to pay \$104 as arrears of interim alimony since the service of the statement of claim up to the date of the order and \$8 a week thereafter; also \$40 for interim disbursements.

Joseph Montgomery, for the defendant.

Shirley Denison, for the plaintiff.

HON. MR. JUSTICE RIDDELL:—The appellant asks that the order be not effective unless and until the plaintiff returns their child to the defendant and his chattels she has—and in any event that the amount be reduced—and moreover that the sum of \$113, taken away by the plaintiff from the defendant's house, part of his money, be taken into account.

In *Karch v. Karch*, 21 O. W. R. 833, I discussed the circumstances under which interim alimony should be allowed; and do not now depart from the conclusions there arrived at. I think that I cannot stay the operation of the order until the plaintiff does something which it may turn out she is not bound to do.

But as to the amount—while it is clear that interim alimony may be, and often is granted from the service of the writ (or statement of claim) that is only if there has been no delay in making the application.