

go further, the rights as claimed in this action may be further considered and determined there.

In my opinion this action should be dismissed—but under all the circumstances without costs.

Twenty days' stay.

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HON. MR. JUSTICE MIDDLETON.

DECEMBER 7TH, 1912.

RUTTLE v. RUTTLE.

4 O. W. N. 457.

*Alimony—Subsequent Cohabitation—No Peril to Life or Health—Costs—Con. Rule 1145.*

MIDDLETON, J., dismissed an action for alimony where defendant's conduct had been reprehensible, but not such as to endanger plaintiff's life or health, and where there had been cohabitation after action brought, but ordered defendant to pay all costs.

Action for alimony.

J. A. Jackson, for the plaintiff.

J. E. Jones, for the defendant.

HON. MR. JUSTICE MIDDLETON:—The wife has never been in any peril of life or health, nor has she had any real apprehension of danger. The husband has acted badly particularly when under the influence of liquor and has made charges in his defence, which he has in no way attempted to prove.

The wife continued to live with her husband for some two months after action, and cohabited with him. Her action fails, but the husband must pay all costs over which I have control under C. R. 1145.

There does not seem to be any reason why the wife should not live with her husband, if she does not prefer to live with the sons, and it is to be hoped there even yet may be a reconciliation, if good sense is allowed to triumph over temper, and the elder son cease to interfere.