

The order, therefore, is as follows:—It is declared that each of the petitioners is entitled to election on at least one or other of the Standing Committees appointed by the Council, and such committees are hereby interdicted from exercising their functions until such election is made. The respondent must pay the costs of these proceedings.

Applicants' Attorneys: *A. S. Benson*; Respondents' Attorneys: *Lance & Hoyle*.

[P.M.]

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MOSES v. MOSES.

1915. December 8. DE VILLIERS, J.P.

*Husband and wife.—Judicial separation.—Alimony and costs.—Primâ facie case.—Necessary allegations.*

Allegations by a wife of continuous interference in her domestic affairs by a mother-in-law, who "treated her like a slave," and of having been struck on a single occasion by her husband, who declined to restrain the mother-in-law, are not sufficient to show that cohabitation has become dangerous or, at least, intolerable to the wife; and such allegations, therefore, will not support an application for costs and alimony pending an action for judicial separation. *Wentzel v. Wentzel* (1913, A.D. 55), followed.

Application by a wife for costs to enable her to bring an action for a decree of judicial separation, and for alimony *pendente lite*. Applicant alleged in her petition that she "lived with her husband for about three months after marriage, and was then compelled to leave him on account of cruelty." The application was ordered to stand over for the purpose of a further affidavit by the applicant giving particulars of the alleged cruelty. She had now filed an affidavit in these terms: "I repeat my statement that my husband continually ill-treated me, and that I was compelled to leave my home on account of such ill-treatment. From the time of our marriage until I left I was under the entire control of my husband's mother-in-law, who treated me like a slave. I complained to my husband and asked to be allowed to do my own cooking and household duties, but he refused my requests, and said that if I did not obey her orders he would beat me. I continued the same way for a time and again complained to my husband, whereupon he hit me

with his clenched fist in the presence of one Chetty as will appear from the affidavit hereto attached. I left his house immediately, as I found it was impossible to live with him.”

*G. B. Stent*, for applicant moved.

*C. T. Blakeway*, for respondent: The particulars disclosed by applicant do not support a *prima facie* case for a decree of judicial separation. A *prima facie* case must be made out in an application of this kind. *Everton v. Everton* (1910 T.H. 201). As to what is required for a decree of judicial separation, see *Wentzel v. Wentzel* (1913 A.D. 55).

*Stent*, in reply: The allegation that a blow was struck is sufficient.

DE VILLIERS, J.P.: The applicant first came before the Court without any particulars at all of her husband's alleged cruelty. She was given an opportunity of putting an affidavit particulars to show that she had a *prima facie* case in the action for judicial separation which she proposes to bring. She now says, “I repeat my statement that my husband continually ill-treated me,” and gives certain particulars. [His Lordship read the affidavit, and proceeded.] These allegations simply amount to this—that the respondent's mother-in-law interferes in the management of the applicant's home, and that on one occasion the respondent struck the applicant. There is nothing whatever to show that cohabitation between the parties has become dangerous or, at least, intolerable, and the application accordingly fails.

Applicant's Attorney: *J. P. Lambert*; Respondent's Attorney: *H. Solomon*.

[P. M.]

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DAVIDOFF v. HOLLAND.

1915. December 14, 17. DE VILLIERS, J.P.

*Debtor and creditor.—Untaxed costs.—Disbursements.—Law 12 of 1899, sec. 2.*

Law 12 of 1899, sec. 2, requiring bills of costs to be properly taxed before they are claimable, applies to charges not only for services rendered but also for disbursements such as counsel's fees.

A claim made by an attorney against his client in respect of counsel's fees incurred by him on the client's behalf, but not taxed against the client, *Held*, not to constitute a debt on which a petition for sequestration can be based.

*Marks and Holland v. Palmer* (1915, T.P.D. 246), followed.