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No. 30.

HIGH COURT OF JUSTICE.

BOYD, C., IN CHAMBERS.

MARCH 29TH, 1912.

*RE HUTCHINSON.

Infant—Custody—Rights of Father against Maternal Grandparents—Welfare of Child—Agreement under Seal—Adoption—1 Geo. V. ch. 35, sec. 3—Application upon Habeas Corpus—Costs.

Motion by W. H. Hutchinson, the father of Adah May Hutchinson, a child of two years, upon the return of a writ of habeas corpus, for an order for the delivery of the child to him, by the maternal grandparents, the respondents.

W. N. Ferguson, K.C., for the applicant.
V. A. Sinclair, for the respondents.

BOYD, C.:— . . . There is a mass of material before me which I have carefully perused and find that there is a cumulation of domestic details on which the various deponents contradict each other in an embarrassing manner. Disregarding the smaller discrepancies, I should judge, despite all the divergent opinions, that there is no danger likely to arise to the child whether she stays with her grandparents or goes to her father, in regard to any tubercular infection. Nor do I think there is any lack of affection on the part of the father, though it may be he is not so attractive to the child as her grandparents. They have been to all intents in loco parentis to this young girl since her birth. The parents of the infant lived in the house and home of the maternal grandparents from the date of their marriage till the death of the wife on the

*To be reported in the Ontario Law Reports.