

on the part of, the mother, who is now able to support the child only by going out to work, it cannot be in the child's interests that the Court should take the chances of the assertions of intemperance being wrong. It is not as if the ruling of this Court now must be irrevocable; there is nothing to prevent a future application, should the mother consider herself able at any time to dispel any doubts as to her temperate habits.

Again, the purpose of the mother seems to be mainly to bring up the child in her own religious faith; and that she has no right to do. The general rule is, that children are to be brought up in the religious faith of their father, and there is nothing in this case to take it out of that rule.

The statute-law of the Province has not encroached upon a father's right respecting the religious faith in which his children shall be brought up—it has expressly preserved it: see sec. 36 of the Infants Act; see also *In re Scanlan* (1888), 40 Ch. D. 200, and *In re Story*, [1916] 2 I.R. 328.

The appeal should be dismissed.

LENNOX, J., was of the same opinion, for reasons stated in writing.

RIDDELL, J., in a short written judgment, said that at the conclusion of the argument he was of the opinion that the best interests of the child called for an allowance of the appeal; and further consideration and a careful perusal of the evidence had confirmed him in that view.

He thought at one time that the provisions of sec. 36 of the Infants Act might prevent the Court from giving effect to the wishes of the mother; but this he now thought was not the case.

He could find nothing of binding authority compelling the Court, in the present instance, to prevent the mother having the custody of her child. The custody was the only matter in question, though it was plain that the odium theologicum (notoriously the most bitter of all) entered largely into the contest for the custody.

The appeal should be allowed.

ROSE, J., was of the same opinion, for reasons stated in writing.

*The Court being divided, appeal dismissed with costs.*