

the police, and the child was found in the home of a friend. She was then, strange to say, taken before the Police Magistrate on a charge of vagrancy; and the record of the Children's Aid Society states that, as she appeared to act in an eccentric manner, she was remanded for a week, so that the Children's Aid Society might make inquiries. Finally, she was returned to her aunt. The record of the Children's Aid Society contains statements very damaging to the father.

I asked the child about this episode, and she told me that she ran away because her aunt was going away on a visit, and she feared that her father would get her. The fact that the aunt contemplated a visit appears in the evidence given; and I am convinced that this was the real reason for the child's conduct, and that the eccentric manner noted was merely the result of her nervous condition and of the impediment in her speech; as, apart from this, I find no trace of any eccentricity.

I do not think it desirable to set forth at length the reasons which convince me that the father and the step-mother are not the proper custodians of this young girl. The contemporaneous record of the Children's Aid Society of the occurrence in November, 1911, the fact that the father has a strong will and a temper none too well under control, and the tenor of his two recent letters—of the 5th and 8th April, 1912—indicate his mental attitude; and, with the almost abject terror of the child when the possibility of her being placed in the custody of her step-mother was suggested, compel me to the conclusion that she should be allowed to remain where she now is. This course is that recommended by Mr. Kelso.

I pointed out to her that apparently her father was much better off financially than her aunt; to which she at once replied, "I have come to see that money is not everything." I quite believe that she will be properly cared for and brought up by the aunt and her family, who have sufficient affection for her to be ready to care for her without remuneration.

The motion will, therefore, be dismissed with costs.

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MIDDLETON, J.

MAY 18TH, 1912.

ONTARIO ASPHALT BLOCK CO. v. COOK.

*Account—Reference—Book-accounts—Credits—Absence of Surcharge or Falsification—Payment—Onus—Amounts Received in Excess of those for which Credit Given.*