

Held, that, having regard to the welfare of the infants and the conduct of the parents, the mother should have the custody for the present.

It was urged that the father had a right to have the children brought up as Presbyterians, and that the mother and her mother were both members of the Salvation Army.

Held, that this question was not a pressing one, owing to the tender age of the infants; the father might raise it again.

Held, also, that having regard to the wide discretion given by R. S. O. c. 137, s. 1, the judge was freed from any possible obligation to make, upon the application of the father, an order which would be refused in the application of the mother.

F. E. Hodgins, for the father.

W. H. P. Clement, for the mother.

Street, J.]

[Dec. 11.

BURKE v. PITMAN.

Indemnity — Relief against co-defendants — Procedure where such relief claimed — Trial of questions raised.

No order is necessary to enable a defendant to plead a claim for indemnity against his co-defendant, but such a claim will not be tried without an order providing for the determination of the question so raised.

P. borrowed money from the plaintiff, and then went into partnership with N. P. and N. afterwards sold the business to B. The plaintiff, having judgment against P., brought this action against P., N. and B. to set aside the sale to B. as fraudulent. P. alleged in his defence that N. agreed to pay half his debts, including that to the plaintiff, and that B. agreed to pay the liabilities of P. and N. appearing in the books, which the liability to the plaintiff did, and he claimed indemnity against N. and B.

Held, that the trial of the question whether or not the sale to B. was fraudulent as against the plaintiff, would involve an inquiry as to the terms upon which B. purchased from the other defendants, and that the whole matter was one that might be advantageously disposed of at one hearing.

George Macdonald, for the plaintiff.

George Ritchie, for the defendant P.

Gunther, for the defendants N. and B.

Rose, J.]

[Dec. 14.

PATTERSON v. GILPERT.

Report—Confirmation—Order—Consent.

Unless by consent, a report cannot be confirmed until after the lapse of time limited by Con. Rule 848.

It is an undesirable practice for an officer to make an order confirming his own report.

W. H. Blake, for the defendant.

H. H. Robertson, for the plaintiff.

Miscellaneous.

IN NEWGATE.—A well-known member of the Chicago Bar, who visited London during the past summer, among the sights took in the famous Newgate prison, whence so many prisoners, in times past, went forth to die upon the scaffold. He expressed a wish to his English guide to go inside one of the cells and see how it looked. The Englishman said "Certainly." The Chicago lawyer had no sooner entered the cell than the Englishman quietly shut the door, locked it, and walked away. The lawyer at first thought he would be liberated in a few minutes. He lighted a cigar and commenced smoking. But when half an hour had passed, and no one came, he called aloud for help, and kicked the door as if he would kick it down, but no one heard his cries; if they did, they were not heeded. After more than an hour had passed, the keeper came and wanted to know what in the world the prisoner was kicking up such a row for. The lawyer was told that the rules of the prison were so strict that no matter how a person came to be locked up in a cell, he could only be discharged upon a ticket or leave, which could only be obtained from the prison authorities. The ticket was soon obtained. The guide then told the lawyer if he had seen enough of their English sweat-box he was entitled to his discharge, and that twelve men who had been confined in that cell had been hung for crimes against the State. The matter was finally settled to the satisfaction of all concerned by the lawyer, the keeper, and the guide, over a glass of half-and-half.—*Chicago Legal News.*