

he relieved the Children's Aid Society and the Victoria Industrial School from further responsibility. Nothing by way of reimbursement, payment, or costs was asked for. H. L. Barnes, for the applicants. J. E. Farewell, K.C., for the Police Magistrate and the Children's Aid Society. T. Ferrier, for the Victoria Industrial School.

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SCOTT V. GARDINER—LENNOX, J.—DEC. 11.

*Report of Master—Motion to Set aside—Refusal to Receive Evidence—Reference back for Limited Purpose—Res Judicata.*]—Motion by the defendants to set aside the report of the Local Master at Sandwich, on the ground that, acting under an order of the Court made by KELLY, J., on the 17th October, 1919, the Master refused to take evidence, tendered by or on behalf of the defendants, relevant to the questions to be determined upon the reference. The motion was heard in the Weekly Court, Toronto. LENNOX, J., in a written judgment, said that counsel for the plaintiff, as a preliminary objection, submitted that the question now raised was disposed of by the order of KELLY, J., and referred to the reasons for judgment given by the learned Judge when he made the order referred to, as limiting the relief granted to the defendants to a resettlement of the minutes, after notice to all parties had been duly served. The application on that occasion included, as well, a direction to the Local Master to take the evidence now sought to be introduced as to a resettlement of the minutes. The reference back was for the purpose of resettling the minutes only. The order reads: "This Court doth order that . . . notice not having been given . . . the said report be and the same is hereby set aside and referred back to the said Local Master for the purpose of causing notice of settling thereof to be given to all interested parties. And this Court doth further order that notice of settlement of the said report be served on all parties." All this had been done, and the only complaint was that the Local Master refused to do more, that is, refused to take the evidence then and now in question. Reference to the reasons of KELLY, J., as noted ante 114. The learned Judge thought the objection was well taken, that the matter was *res judicata*, and that the Local Master was right. The motion should be dismissed with costs to be paid by the defendants to the plaintiff forthwith after taxation thereof, unless the report found money owing to them by the plaintiff; in that case the costs should be set off *pro tanto*. Peter White, K.C., for the defendants. W. J. Beattie, for the plaintiff.