

LOGIE, J., IN CHAMBERS.

OCTOBER 31ST, 1919.

RE DRISCOLL.

Infant—Custody—Neglected Child—Children's Aid Society—Foster-home Found by Society—Application by Parents for Custody of Child—Welfare of Child—Rights of Foster-parents.

Application by the father and mother of certain infants for an order giving them the custody of the infants.

D. W. Markham, for the applicants.

K. W. Wright, for the Superintendent of Neglected Children and the Inspector of Children's Aid Societies.

LOGIE, J., in a written judgment, said that natural sympathy with parents who had apparently recovered their proper position in the community, and who were now willing and able to support their infant children properly, would lead a Judge, were he not bound by authority, to restore such children to them.

But in such a case the applicant must prove or shew in some satisfactory way that the removal of a child from the custody of foster-parents will enure to the benefit of the child: *Re D'Andrea* (1916), 30 O.L.R. 30; and in this case that onus had not been discharged.

Two of the three children had been restored to the parents since the application was launched. The third, a girl, was, in 1915, at the age of 15 months, transferred to the custody of a young married couple, farmers, without children of their own; and that child, now more than 5 years old, had been well cared for and was an object of her foster-parents' deep devotion.

The natural parents had set up a home in a city, in a house said to be clean and well-kept, and the father had steady employment and was well able to support his family.

The parents here, as in the *D'Andrea* case, opened the door for the benevolent work of the Children's Aid Society; the society's work reached its culmination in finding a new and suitable home; and the decision in the case cited was, that such a status quo should not lightly be interfered with.

What the nature of the proof "that the removal of the child would enure to her benefit" should be need not be stated—it was sufficient to say that nothing other than the rehabilitated respectability of the natural parents had been shewn here. That was not sufficient, in view of the decision in the *D'Andrea* case.

Motion dismissed without costs.