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REPORTS AND NOTES OF CASES.

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## Province of Ontario.

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HIGH COURT OF JUSTICE.

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Falconbridge, C.J.K.B., Magee, J., Mabee, J.] [May 29.

## RE FAULDS.

*Infant — Custody — Rights of father — Fitness — Religion — Temporal welfare of child—Abandonment—R.S.O. 1897, c. 259.*

Upon an application by the father of a girl of eleven years for an order against the maternal grandmother for delivery of custody, it was shewn that the mother of the child was dead, that the child had lived with the grandmother since she was three years old, and had been brought up as a Protestant, while the father had become a Roman Catholic and desired to educate the child in that faith.

*Held*, upon the evidence, that the applicant was not an unfit person to have the custody of his daughter; that there was no agreement that the child should remain with the grandmother always or until her death, and the father had not abandoned his parental rights; that the child herself had no serious religious convictions; that she would have a better home and a better education in her father's house than with her grandmother; that it would be for her advantage to be brought up in the same home with her only brother; and that no case had been made out which would justify a refusal to give effect to the father's right to the custody of his child.

While the welfare of the infant is in one sense paramount, the paternal right to custody and control is supreme, unless a very extreme case can be made out shewing that it is imperative for the protection of the child that the Court should interfere with that right.

The reluctance of the Court to separate brothers and sisters is very great.

It is the duty of the Court to enforce the wishes of the father as to the religious education of his children, unless there is strong reason for disregarding them. The Court has jurisdiction to