

or will irrevocable to such effect, the court, acting on principles of equity will not, at the father's instance disturb that arrangement.

2. Apart from the agreement, the interests of the child would be better subserved by letting her custody remain in statu quo, the father having all reasonable access to the child.

W. N. Ferguson, K.C., for the applicant. *V. A. Sinclair*, for the respondents.

NOTE:—In an unreported case the father of a girl, about six years of age, applied for her custody. She had been living with her aunt in Ontario, who took good care of her. Her father was a widower living in Nova Scotia. Gwynne, J., considered that the interests of the child must prevail against the father's prima facie right to the custody of the child. He, therefore, had all the parties before him and told the child she could go either to her father, or to her aunt. She chose the later.—Ed. C.L.J.

Master in Chambers.]

[April 6.]

SCORLETT v. CANADIAN PACIFIC RY. CO.

Fatal Accidents Act—Action by mother and by widow as administratrix.

Any person claiming to be beneficially entitled can bring an action immediately after the death, if there is no execution or administrator, but if a personal representative be appointed and an action be begun within six months of the death, the first action must be stayed.

W. A. Henderson, for plaintiff in first action. *H. R. Frost*, for plaintiff in second action. *C. W. Livingston*, for defendants.

Province of Manitoba.

KING'S BENCH

Macdonald, J.]

ARCHDEKIN v. McDONALD.

[March 11.]

Contract—Option—Consideration—Re-dating time limit—Specific performance—Deposit—Tender—Cheque.

Held, 1. Where an option is given for a consideration for a limited time from its date and is later amended, and re-dated