

The legislative will was then exercised, and the intention of the Legislature was to permit the sealing to relate back; and, after the sealing has taken place, I am to treat the by-law as a good and valid by-law from the date of the passing.

Motion dismissed with costs.

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MIDDLETON, J., IN CHAMBERS.

JUNE 30TH, 1914.

RE ELLIOTT INFANTS.

*Infants — Custody — Children's Protection Act of Ontario — Order of Police Magistrate—Application by Father for Custody—Welfare of Children.*

Application by the father of the infants, on the return of a habeas corpus, for an order for delivery of the custody of the infants to the applicant by a Children's Aid Society.

Eric N. Armour, for the applicant.

J. R. Cartwright, K.C., for the Children's Aid Society.

MIDDLETON, J.:—These children have been taken into custody by the Children's Aid Society, and the case was heard at great length before the Police Magistrate at Belleville.

The evidence taken in shorthand covers 137 full pages. In the result, the magistrate, by reason of the father's neglect, ordered the children to be made wards of the Children's Aid Society, and directed the Corporation of the County of Hastings to contribute towards their maintenance and support until a foster home is provided. The children are yet in the custody of the society. Application is now made by the father for an order restoring to him the custody of the child.

Upon the evidence, which commended itself to the magistrate, and which I see no reason to disbelieve, it is quite plain that the father did desert and neglect his children; and I think that as a matter of discretion I should now decline to interfere. Having regard to the welfare of the children, I am satisfied that they will be better cared for as wards of the society than they ever have been by the father.

As usual in cases of this kind, there are not lacking those whose sympathy with the father has resulted in affidavits