

RE FLEET—KELLY, J.—MARCH 6.

Infant—Custody—Child of Tender Years in Custody of Mother Living apart from her Husband—Application by Father for Custody—Issue—Determination in Favour of Father—Welfare of Infant.—Issue directed by an order of LENNOX, J., to whom an application was made by Howard Blake Fleet, the father of Walter Fleet, an infant of two years of age, for the custody and control of the child, who was in the possession of his mother, Myrtle Jane Fleet, who lived with her parents in Hamilton, and who denied the right of her husband to such custody and control. The issue was directed for the purpose of determining which of the parents was entitled to the custody and control. The issue was tried without a jury at Hamilton. KELLY, J., in a written judgment, set out the facts at length and stated his conclusion that the husband could, better than the wife, under present conditions, give the child, commensurate with his own means and position, the standing and advantages to which the child was entitled. A good arrangement had been made by the father with a competent woman for the care and nurture of the child. The learned Judge particularly referred to *Re Mathieu* (1898), 29 O.R. 546, and *Re Scarth* (1916), 35 O.L.R. 312, and the cases cited in the reports of those cases. Judgment declaring the father entitled to the custody and control of his child, and for delivery up of the child by his mother at the office of the Sheriff of Wentworth, upon appointment and notice. There should be no costs. If the mother desires the privilege of access to her child at intervals, the learned Judge may be spoken to. N. R. Kay, for the father. R. Sloan, for the mother.