

HON. SIR G. FALCONBRIDGE, C.J.K.B. APRIL 23RD, 1913.

McPHERSON v. UNITED STATES FIDELITY.

4 O. W. N. 1182.

*Judgment—Speedy Judgment—Action on Bond—Con. Rule 603—  
Good Defence on Merits Alleged.*

MASTER-IN-CHAMBERS, 24 O. W. R. 482; 4 O. W. N. 1140, refused to make an order for judgment under Con. Rule. 603 in an action upon a bond given as security in an interpleader issue where a good defence upon the merits was alleged. *Smyth v. Bandel*, 23 O. W. R. 798, followed.

FALCONBRIDGE, C.J.K.B., affirmed above order.

An appeal by the plaintiff from an order of the Master-in-Chambers, 24 O. W. R. 482; 4 O. W. N. 1140.

W. Laidlaw, K.C., for plaintiff.

G. H. Kilmer, K.C., for defendants.

HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B.:—This case presents some unusual features, but, nevertheless I cannot disregard the long line of modern decisions gradually restricting the plaintiff's right to get judgment under Con. Rule 603. I think the Master is right, and there is nothing to add to his reasons. I do not see my way to make any special order or condition as to payment of money into Court. The appeal is, therefore, dismissed, with costs to the defendant in any event.

HON. MR. JUSTICE MIDDLETON.

JUNE 5TH, 1913.

RE FREDERICK KENNA.

4 O. W. N. 1395.

*Parent and Child—Custody of Child—Abandonment by Father of Paternal Rights—Adoption in Good Home—Right of Father to Insist on his Religion—8 Edw. VII. c. 59, s. 30—Welfare of Child.*

MIDDLETON, J., *held*, that where a Catholic father had surrendered and abandoned his paternal rights to a child and the latter had been adopted into a good Protestant home where his future was assured, the father had no right to insist that the child should be handed over to him to be placed in much worse surroundings or to be placed in a Catholic orphanage where he would be assured of being reared in the Catholic religion.

*In re Faulds* 12 O. L. R. 245, distinguished.

Motion made on 29th May, 1913, for delivery of one Frederick Kenna, a child aged four, to the custody of the father or his nominees, upon the return of a writ of *habeas*