

cable to the subject-matter of the suit is that the defendant should be let in to purchase for the full price on the terms that he shall not use the lot in a way detrimental to it as a residential property. This is, of course, very vague, but I think it may be sufficiently defined by saying that the defendant should not deal with the lot other than as expressed in an affidavit filed on his behalf and made by Geo. Tyndall, that sand and gravel is not to be taken from the lot to a greater depth than 8 feet along the south part of the lot so that the excavation to that depth tapered off to the north will make the surface of a uniform level. This view also accords with the general trend of the evidence.

With this declaration the judgment will be that on payment out of Court of the purchase money a deed according to the prescribed form is to be made to the defendant. That the plaintiff is to get costs up to the time the money was paid into Court and he was notified of it and that thereafter no costs should be to either party.

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HON. MR. JUSTICE MIDDLETON, IN CHRS.      MAR. 11TH, 1914.

RE HILKER.

6 O. W. N. 82.

*Infant—Application of Father for Writ of Habeas Corpus—Infant Removed out of Jurisdiction by Foster Parents—Neglected Child—Children's Protection Act—Children's Aid Society.*

MIDDLETON, J., refused the father of an infant the custody of his child, a ward of the Children's Aid Society, although the foster parents had moved out of the province.

*Regina v. Barnardo*, 23 Q. B. D. 305, referred to.

Motion by the father of an infant for a writ of *habeas corpus*.

A. R. Hassard, for the applicant.

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

HON. MR. JUSTICE MIDDLETON:—There is no dispute as to the facts which are material, in the view which I take of this matter. On the 28th May, 1907, this child was made a ward of the Children's Aid Society of Waterloo, the Judge having found it to be a neglected child within the meaning of the statute (the Children's Protection Act). The child was then placed in an approved foster home, the foster parents at that time residing within Ontario. The foster