

R.S.O. 1914 ch. 231, sec. 2 (1) (h), that "neglected child" shall mean, *inter alia*, "an illegitimate child whose mother is unable to maintain it," it must be held that it is a neglected child, even if it is established that the child is not neglected, but fully and faithfully cared and provided for.

Under the combined effect of Dominion and Provincial legislation, the Commissioner had jurisdiction in the premises: Juvenile Delinquents Act, 7 & 8 Edw. VII. ch. 40 (Dom.); Children's Protection Act of Ontario, as above; see especially sec. 9.

It would perhaps have been more regular to notify the applicant and her husband earlier, and allow them to hear and test all the evidence; but the statute does not void proceedings resulting in an adjudication, so long as the Judge or Commissioner is satisfied that the parents or the person having the actual custody of the child have been notified of the investigation before he proceeds to dispose of the matter: Children's Protection Amendment Act, 1916, 6 Geo. V. ch. 53, sec. 3 (4b); and that was done in this case.

There were some trifling irregularities, but none affecting the merits, and none made fatal by statute.

By sec. 4 (2) of the Act of 1916, "the illegitimate child of a Protestant mother shall be deemed to be a Protestant;" and, by the principal Act, sec. 28 (1), "no Protestant child shall be committed to the care of a Roman Catholic . . . institution."

The mother said she was "an Anglican;" and "Anglican," as opposed to "Roman Catholic," means "Protestant."

The Commissioner was forbidden by sec. 28 (1) to commit the boy to a Roman Catholic institution; and he did what the law required in making the boy a ward of the Children's Aid Society: sec. 9 (5).

There is in this case no discretion to be exercised by the Court as to what is best for the welfare of the child.

Motion dismissed with costs.

JASPERSON V. SELKIRK—FALCONBRIDGE, C.J.K.B.—JAN. 13.

Contract—Action for Price of Goods Alleged to have been Sold and Delivered—Evidence—Failure to Establish Sale—Counterclaim—Costs.—Action for \$945.30, the price of onions said to have been sold and delivered to the defendants. There was a counterclaim by the defendants for \$136.16, and third parties were brought in by the defendants. The action was tried without a jury at Sandwich. FALCONBRIDGE, C.J.K.B., in a written judgment, said