

and their father will reside. The order is, therefore, one made after the learned trial Judge had seen and observed both the father and the mother.

In cases affecting the custody and welfare of children nothing is more important than the character and disposition of the parents, and I think the utmost importance should be attached to the view of an experienced Judge, who has had the advantage of seeing the parents; hearing them detail their complaints, and listened to their explanations. The evidence discloses a case of continual quarreling, resulting in personal violence on both sides from time to time.

The position in which the children now are is the direct result of the desertion by the wife of the husband, which produced a situation, the consequence of which is that the husband now declines absolutely to take the wife back.

In the evidence reference was made to an offence committed by the husband after the separation in 1909, and to an event in the life of the mother, both of which were passed over lightly by counsel at the trial, yet they occupied the attention of the trial Judge, and I have no doubt influenced his decision.

In view of the evidence given, I should be disposed to think that this is peculiarly a case in which the welfare of the children should outweigh every other consideration affecting the parents, and that the order in appeal is the only order which could be made at this stage of the case.

In *Re Hutchinson*, 26 O. L. R. 601, 4 O. W. N. 777, the Divisional Court thought it necessary to stipulate that the father should at least undertake to procure a suitable house, with his sister in charge of it, before he obtained the custody of his child. In this case the order of the learned Judge has made a similar provision, and I think the order is right, and should be affirmed.

HON. SIR WM. MEREDITH, C.J.O., HON. MR. JUSTICE MACLAREN and HON. MR. JUSTICE MAGEE agreed.