

parent as to the child's future that great weight should be given to it by any Court dealing with the custody of the child.

Whatever rights the grandmother might have, she must assert them properly, and not by a violation of her undertaking to return the child. The motion was dealt with solely upon this ground and upon the ground that the letters probate could not be attacked in this collateral manner.

If these proceedings were to end the litigation, no costs should be allowed; but, as this was only the beginning of the litigation, there was no reason why costs should not follow the event. The applicant should, therefore, recover costs against the grandmother, not to be levied against her personally, but to be set off against any costs that in any litigation concerning this matter might be awarded to her.

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SUTHERLAND, J.

OCTOBER 14TH, 1919.

PRESTON v. HILTON BROTHERS.

*Nuisance—Erection of Stables and Waggon-sheds in Residential Neighbourhood in City—Action by Property-owner qui tam to Restrain—Interim Injunction—Motion to Continue until Trial—By-law of City Council—Permit—Addition of City Corporation as Defendant—Status of Property-owner to Maintain Action.*

Motion by the plaintiff to continue until the trial an interim injunction granted by FALCONBRIDGE, C.J.K.B., on the 9th September, 1919.

The motion was heard in the Weekly Court, Toronto.

A. C. McMaster, for the plaintiff.

E. P. Brown, for the defendants.

SUTHERLAND, J., in a written judgment, said that the plaintiff resided in First avenue, in the city of Toronto, and owned real property fronting on the south side thereof. The defendants had recently acquired property on the north side thereof. The defendants had for some years carried on business as bread manufacturers, in premises on the south side of Gerrard street, north of a lane between that property and another property recently acquired by them on the south of the lane. In connection with their business the defendants had erected and used a large brick bakery and stables for waggons and horses. They had commenced to erect