

be that an infant child is to be brought up in its father's religion unless it can be shewn to be for the welfare of the child that this rule should be departed from, and add: "The welfare of the infant is the ultimate guide of the Court."

[Reference to *The Queen v. Gyngall*, [1893] 2 Q.B. 232; *In re Newton*, [1896] 1 Ch. 740; *In re O'Hara*, [1900] 2 I.R. 232; *Re Faulds*, 12 O.L.R. 245; *Re Davis* (1909), 18 O.L.R. 384; *Re Young* (1898), 29 O.R. 665.

While I cannot find any case in which the sections in the English Act which are similar to ours have been construed, I think the principles in the cases cited are entirely applicable.

I have heard no reason adduced which, to my mind, impeaches the discretion exercised by my brother Middleton; and, as I wholly agree with his views as to the welfare of the child, upon the facts properly before him, I think the appeal must be dismissed with costs.

DECEMBER 4TH, 1913.

*RE BILLINGS AND CANADIAN NORTHERN R.W. CO.

Railway—Expropriation of Land—Compensation and Damages—Arbitration and Award—Evidence of Value—Injurious Affection—Interference with Access—Highway—Possibility of Closing—Injury by Railway Previously Constructed—New Situation Created by Second Railway—Determination of Extent of Area Affected—Percentage of Depreciation—Injury from Smoke, Noise, and Vibration—Title to Land—Res Judicata.

Appeal by H. B. Billings from an award of arbitrators of the 28th December, 1912, fixing the compensation of lands taken by the railway company for their railway.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A.

I. F. Hellmuth, K.C., and D. J. Macdougall, for the appellant.

E. D. Armour, K.C., and A. J. Reid, K.C., for the railway company, the respondents.

*To be reported in the Ontario Law Reports.