

A. S., a boy whom she had adopted, to quash the order, which was made by the Commissioner of the Juvenile Court, Toronto, finding that the boy was a "neglected child" and a Protestant, and directing that he should be made a ward of the Children's Aid Society of Toronto.

Frank J. Hughes, for the applicant.

J. R. Cartwright, K.C., for the Attorney-General.

RIDDELL, J., in a written judgment, set out the facts at length. It appeared that the boy was the illegitimate son of Mary Helen S., and was placed by her in a Roman Catholic home for infants. The applicant and her husband, as she said, "adopted this boy in the expectation that he would be left with us." In 1917 he became disobedient and unmanageable; and in the spring of 1918 the applicant returned him to the orphanage from which she had received him. Shortly afterwards she took him out with the consent of the orphanage authorities, but returned him again. She said that she never at any time intended to give up control of the boy; and on the 19th September she took him away again.

In the meantime proceedings were being taken in the Juvenile Court. On the 3rd July, 1918, a complaint was laid that A. S., "residing at the Sacred Heart Orphanage," was "a neglected child, in that he is deserted by his parents." Evidence was taken, and the case was adjourned for further evidence. The mother of the boy was found, and brought to the orphanage in September; she identified her child, but was wholly unable to support him; she had not heard of him since 1908, and had thought him dead.

Her evidence having been taken, in which she swore that she was a Protestant and desired him to be brought up as a Protestant, the child was ordered to be produced in Court; he was brought in on the 10th December, and the Commissioner then made the order complained of.

The applicant contended that A. S. was not a neglected child, and that the proceedings were irregular.

The boy was not a neglected child in the ordinary sense. The applicant and her husband were perfectly respectable and reliable persons, both able and willing to care for the lad. But the Legislature, in determining the various classes of children concerning which special provisions should be made, selected the classes, and used the term "neglected children" to cover them all.

As in *Regina v. Commissioners of the Boiler Explosions Act* 1882, [1891] 1 Q.B. 703, and *Bradley v. Baylis* (1881), 8 Q.B.D. 210, 230, the plain words of the statute cannot be got over, although the statute may say that things are what they are not; and, when the Legislature says, in the Children's Protection Act of Ontario,