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COURT OF APPEAL.

FEBRUARY 10TH, 1913.

*RE HUTCHINSON.

Infant — Custody — Habeas Corpus — Right of Father against Maternal Grandparents—Agreement—Adoption—1 Geo. V. ch. 35, sec. 3—Application to Father of Child—Welfare of Infant—Medical Testimony.

Appeal by Robert Burvill and Adah Burvill, grandparents of the infant Adah May Hutchinson, from the order of a Divisional Court, 26 O.L.R. 601, 3 O.W.N. 1552, reversing the order of BOYD, C., 26 O.L.R. 113, 3 O.W.N. 933, and awarding the custody of the infant to her father, William H. Hutchinson.

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

W. A. Sinclair, for the appellants.

W. N. Tilley, for the respondent.

HODGINS, J.A. :— . . . It would, I think, require very clear and explicit words to enable the Court to construe the statute in question (1 Geo. V. ch. 35, sec. 3) as entirely reversing the law flowing from 12 Car. II. ch. 24, secs. 8 and 9, on which this enactment is based—see *Leach v. The King*, [1912] A.C. 305—and as enabling a father to renounce the rights and duties of a parent during his lifetime and to make an agreement which, prior to this recent statute, was regarded as illegal and contrary to public policy: *Roberts v. Hall*, 1 O.R. 388, at p. 404.

*To be reported in the Ontario Law Reports.